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MONTANA LEGISLATIVE HISTORY

Chapter 563 19 93

Bill H 469 S _____ Original bill & history ____C

H. Committee on Education & Cultural Resources			S. Committee on Education & Cultural Resources		
Hearing Date(s)	Feb 10	✓ C	Hearing Date(s)	Mar 10	✓ C
	Feb 15	✓ C		Mar 19	✓ C
		____C			____C
		____C			____C
Date Out	Feb 16	✓ C		Mar 22	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

Note; A Free Conference Committee was appointed. Its minutes were not recorded.

HB 469 INTRODUCED BY COCCHIARELLA

REVISE TUITION LAWS AND CRITERIA FOR CHILD TO ATTEND SCHOOL IN ANOTHER DISTRICT

2/04	INTRODUCED		
2/04	REFERRED TO EDUCATION & CULTURAL RESOURCES		
2/04	FIRST READING		
2/06	FISCAL NOTE REQUESTED		
2/10	HEARING		
2/16	COMMITTEE REPORT--BILL PASSED		
2/18	2ND READING PASSED	55	41
2/19	FISCAL NOTE RECEIVED		
2/20	FISCAL NOTE PRINTED		
2/20	3RD READING PASSED	49	48
	TRANSMITTED TO SENATE		
2/22	FIRST READING		
2/22	REFERRED TO EDUCATION & CULTURAL RESOURCES		
3/10	HEARING		
3/23	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/25	2ND READING CONCURRED	49	0
3/26	3RD READING CONCURRED	45	1
	RETURNED TO HOUSE WITH AMENDMENTS		
4/01	2ND READING AMENDMENTS NOT CONCURRED	97	0
4/02	FREE CONFERENCE COMMITTEE APPOINTED		
4/14	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/16	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	89	8
4/19	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	87	11
	SENATE		
4/05	FREE CONFERENCE COMMITTEE APPOINTED		
4/14	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/16	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	49	0
4/17	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	39	0
4/21	SIGNED BY SPEAKER		
4/22	SIGNED BY PRESIDENT		
4/23	TRANSMITTED TO GOVERNOR		
4/28	SIGNED BY GOVERNOR CHAPTER NUMBER 563 EFFECTIVE DATE: 07/01/93		

HB 470 INTRODUCED BY DRISCOLL

CLARIFY WORKERS' COMPENSATION FOR INDEPENDENT CONTRACTORS IN CONSTRUCTION

2/04	INTRODUCED		
2/04	REFERRED TO HOUSE SELECT COMMITTEE ON WORKERS' COMPENSATION		
2/04	FIRST READING		
2/04	FISCAL NOTE REQUESTED		
2/10	HEARING		
2/10	FISCAL NOTE RECEIVED		
2/10	FISCAL NOTE PRINTED		
2/18	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/20	2ND READING PASSED	98	1
2/23	3RD READING PASSED	96	3

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION & CULTURAL RESOURCES

Call to Order: By Rep. H.S. "Sonny" Hanson, Chair, on February 10, 1993, at 3:10 p.m.

ROLL CALL

Members Present:
Rep. Sonny Hanson, Chair (R)
Rep. Alvin Ellis, Vice Chair (R)
Rep. Ray Brandewie (R)
Rep. Fritz Daily (D)
Rep. Ervin Davis (D)
Rep. Ed Dolezal (D)
Rep. Dan Harrington (D)
Rep. Jack Herron (R)
Rep. Bea McCarthy (D)
Rep. Scott McCulloch (D)
Rep. Norm Mills (R)
Rep. Bill Rehbein (R)
Rep. Sam Rose (R)
Rep. Wilbur Spring (R)
Rep. Norm Wallin (R)
Rep. Diana Wyatt, Vice Chair (D)

Members Excused: None

Members Absent: Rep. Gervais and Rep. Simpkins

Staff Present: Andrea Merrill, Legislative Council
Susan Lenard, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: HB 439, HB 443, HB 469, HB 473
Executive Action: HB 398, HB 473

HEARING ON HB 469

Opening Statement by Sponsor:

REP. COCCHIARELLA, House District 59, Missoula, described HB 469 as a school choice bill. It would basically eliminate tuition between school districts except in special cases. She emphasized problems related to tuition are statewide. The school board of

trustees of receiving districts have the authority to decide whether individual children may transfer to their district. They may decide to eliminate tuition charges and may chose to cover transportation expenses incurred. Schools which transfer all of their middle school students to another school would still be allowed to do so. They may contract with a non-resident district to provide certain programs and pay for those from their tuition funds. **REP. COCCHIARELLA** explained tuition would be a flat statewide rate established by OPI rules. Districts must address the cost of transportation for out-of-district students.

Proponents' Testimony:

Rachel Vielleux, Missoula County Superintendent of Schools, stated HB 469 was predicated on the belief the legislature would address equalization of schools this session. It was hoped reform would occur so tuition between and among districts would not be such a divisive issue. The intent of HB 469 is to allow students to go freely from one district to another at the discretion of the receiving school board. The receiving school board would be required to develop policies defining standards for student acceptance. She noted that, at this time, school districts may not refuse court order placements or agency placements if those children are special education students. County equalization would pay for placement, it would not be the financial responsibility of the receiving district. Current law allows districts to refuse placement of non-special education students if the addition of the student could affect either accreditation fulfillments or capacity restrictions. **Ms. Vielleux** explained laws applying to elementary schools vary from those for high schools. She noted HB 469 is an attempt to simplify and unify present laws, make provisions for payment when the receiving school has no recourse, and to standardize tuition costs across the state. It was stressed the bill does not state the district of residence must pay transportation costs, but that an agreement identifying the assumption of the financial responsibility must be established before an arrangement is finalized.

Greg Danelz, Ravalli County Superintendent of Schools, reported schools in his county have agreed not to charge tuition to out of district students. He said what was good policy for his county can be good for all of the state. He explained it would help to clarify the morass of those individuals financially responsibly in the scope of tuition dispersement. A chart depicting the levels of tuition dispersement in elementary and high schools was presented. **EXHIBIT 1**

Don Waldron, Montana Rural Education Association, stated MREA supports portions of HB 469 and particularly favors the ability for receiving districts to refuse students.

Opponents' Testimony:

Rick Stuber, Superintendent of Culbertson Schools, notified the committee that Culbertson elementary school district lies within four separate high school districts. He explained the situation surrounding school boundaries within the district and the geographic restrictions which require tuition to be charged to students who transfer to Culbertson high school. **Mr. Stuber** stated his district lost $20,000 the last time tuition schedules were adjusted and reported it will recognize a loss of $30,000 if HB 469 becomes law. He stressed the bill will only create further hardship on the district. He emphasized the only true option is equalization. Without equalization as an option, he asserted the areas located south of his district would have to annex the high school and part of the elementary district would have to join onto the Culberston high school district. **Mr. Stuber** stressed this was unlikely because the tax valuations differ considerably.

Cliff Roessner, Business Manager and Clerk for Helena Public Schools, reported the Helena Public Schools currently receive 292 tuition students from the surrounding districts. He stated 100 of those students are from a western district which does not have a high school. If Helena did not take these students, the outlying elementary district would need to build its own high school. **Mr. Roessner** stressed that schools in the Helena district are currently seriously overcrowded and would lose critical revenue as a result of the passage of HB 469.

Questions From Committee Members and Responses:

REP. MCCARTHY asked what the situation would be if a district does not wish a particular child to be placed in another district. She wanted to know if the district to has any recourse under the bill. **REP. COCCHIARELLA** responded by stating schools generally have no recourse in limiting the transfer of students out of their districts.

REP. DAVIS asked the sponsor for clarification of lines 7 and 8, page 1 where it states "requiring mandatory attendance approval by the trustees of the district of choice." In response, **REP. COCCHIARELLA** said "mandatory" refers to court assignments i.e. assignments by agencies such as the Department of Family Services.

REP. DAVIS asked what "approval by the trustees" refers to on line 8, page 1. He noted he did not see where any court assignment was mentioned. **Rachel Vielleux** said under current statutes trustees must approve the attendance of a student who is placed by the courts. She explained it is not a change from the current statutes.

REP. DAVIS asked if it was true more than one high school district was contained within the Culbertson elementary district. **Mr. Stuber** answered in the affirmative.

REP. ROSE asked the sponsor to comment on the effect of HB 469 with regards to the transfer of athletes between districts. **REP. COCCHIARELLA** stated Montana High School Association rules would still apply. They are not changed by this piece of legislation.

REP. MCCULLOCH asked for further information regarding the situation with Birdseye area west of Helena and how it would be affected by the bill. **REP. COCCHIARELLA** said it would allow for the districts to reach an agreement as to the cost to the receiving districts of accepting those students.

REP. BRANDEWIE asked **Ms. Vielleux** how she envisioned transportation needs would be met if students were allowed to freely attend any school they chose. She said there are deadlines built into the bill. The most noticeable one is July 1 which is currently in place. **Ms. Vielleux** said the important thing to remember is that the trustees of the receiving district have the authority and opportunity to refuse a child. The receiving districts are required to write policy which establishes guidelines. She explained schools with open enrollment policies set those guidelines on classroom size or additional cost. She admitted it would be impossible to plan transportation needs if the system allowed an uncontrolled free flow of students.

REP. BRANDEWIE asked if HB 469 would encourage schools to consolidate. **Ms. Vielleux** commented there was no way of addressing that particular issue under the bill. **REP. BRANDEWIE** said Swan Lake is interested in this bill passing, with the understanding they will probably never have to build a high school because they have so few students. He stated with HB 469, the adjoining district would be required to foot the cost of educating the Swan Lake students indefinitely. **Ms. Vielleux** replied that would be true if it were not for the existing isolation statutes. If a school has below ten students for three consecutive years then the school either pays half of the foundation program amount or continues operating and ultimately might be annexed to a neighboring district. She explained a district might be able to do this for a few years but it would ultimately result in the closure of its schools.

REP. WALLIN asked if, in the case of forced consolidation, students at the school to be closed would have the option to choose to attend a school farther away than the school located nearest to their district. **Ms. Vielleux** said the decision would depend solely upon the receiving school district. A student does not have to reside in an adjacent school district in order to be accepted as a transfer student.

REP. ELLIS asked **Mr. Stuber** to explain the reason for having multiple high school districts in one school district. **Mr. Stuber** said initially there were a number of small elementary districts in this area. One by one they closed and were made into one district and finally annexed somewhere else. Because of some apparent local jealousy, the land was divided per student in

those school districts so property valuation did not go to one high school.

Closing by Sponsor:

REP. COCCHIARELLA explained transportation could be negotiated so it would not be a cost to the receiving district. She said since the state has not equalized schools, an attempt needs to be made to equalize tuition across the state for all schools. House bill 469 will not fix all of the present problems related to school tuition but it is a positive move toward some equalization in the state. **REP. COCCHIARELLA** stressed the stipulation authorizing the receiving school to refuse students is most important because it allows for local control. She said HB 469 is perhaps premature in the fact it comes before true equalization, but maintained it is a progressive forward step.

HEARING ON HB 473

Opening Statement by Sponsor:

REP. DAVE BROWN, House District 72, Butte-Silverbow, explained the intent of HB 473 is located concisely on lines 7 through 10, page 2. **REP. BROWN** remarked he was asked to sponsor the bill by several of the student body government organizations in the university system. He said it is necessary to ensure students are provided for on the Board of Regents in these difficult financial times. The student selected for the Board would not need to be chosen from the list offered by the universities. He said the seriousness of the position would necessitate collective efforts on the part of the student government organizations. Present statutes in the university system direct a student regent to serve from one to four years. House bill 473 would result in a constitutional amendment to accomplish this stipulation.

Proponents' Testimony:

Diann Smith, Associated Students of Montana State University, noted HB 473 asks that a student member of the Board of Regents be constitutionally recognized. Currently the position is only statutorily recognized. She stressed the need for communication between all of the parties involved in the university system. The governor would still nominate an individual student for the board. A list of potential candidates would be made available to the governor who may chose to select from the list but is not bound to do so. **Ms. Smith** suggested a student regent who does not represent the interests of the students, however, is not desirable and would defeat the purpose of the position.

Opponents' Testimony: None.

HOUSE OF REPRESENTATIVES

Education and Cultural Resources COMMITTEE

ROLL CALL DATE 2/10/93

NAME	PRESENT	ABSENT	EXCUSED
REP. SONNY HANSON , CHAIR	✓		
REP. ALVIN ELLIS , VICE-CHAIR	✓		
REP. DIANA WYATT , VICE-CHAIR	✓		
REP. RAY BRANDEWIE	✓		
REP. FRITZ DAILY	✓		
REP. ERVIN DAVIS	✓		
REP. ED DOLEZAL	✓		
REP. DAN HARRINGTON	✓		
REP. JACK HERRON	✓		
REP. BOB GERVAIS		✓	
REP. BEA MCCARTHY	✓		
REP. SCOTT MCCULLOCH	✓		
REP. NORM MILLS	✓		
REP. BILL REHBEIN	✓		
REP. SAM ROSE	✓		
REP. DICK SIMPKINS		✓	
REP. WILBUR SPRING	✓		
REP. NORM WALLIN	✓		

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Education & Cultural Resources COMMITTEE BILL NO. HB 469

DATE 2/10/03 SPONSOR(S) REP. COCCHIARELLA

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Dr. Rick Huber	Culbertson Schools		✓
Jason Williams	~~Exec~~ Carroll College		—
Greg Davis	Ravalli County	✓	
Karl Rosta	Powell County	—	
Daniel Mills	Helena MT		X
Lyle Onstad	Helena MT		X
Don Waldron	MT Rural Ed Assn	✓	—
Rachel Vielleux	Missoula County	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

REP. MILLS suggested an amendment should be added to restrict students from being able to graduate if they have not paid all of their bills.

REP. MCCARTHY, in response to **REP. MILLS'** proposed amendment, referred to line 25, page 2, where it noted a school may withhold the diplomas of students with outstanding bills. She said since a diploma is the certificate of graduation, this might address the representative's concern.

REP. MCCULLOCH said he did not know if **REP. MILLS'** amendment is within the scope of HB 443. He did not want the bill to go the rules committee.

Vote: **HB 443 DO PASS.** Motion carried unanimously.

EXECUTIVE ACTION ON HB 469

Motion: **REP. BRANDEWIE MOVED HB 469 DO NOT PASS.**

Discussion:

REP. BRANDEWIE said HB 469 could be a good bill if the state had complete equalization in place. He emphasized if HB 469 were to pass at this time it would be no impetus for some schools to consolidate with one another.

REP. REHBEIN stated he opposed the do not pass motion. He said in rural areas the tuition is not a problem because students generally go to the closest school. He noted there are always at least two sides to the issue. In the rural areas of his district it would be advantageous to do away with tuition whereas in the more urban settings the situation is the reverse.

Vote: **HB 469 DO NOT PASS.** Motion failed 7 to 11 with **REPS. BRANDEWIE, DOLEZAL, HERRON, MILLS, SPRING, WYATT,** and **HANSON** voting yes. **EXHIBIT 1**

Motion/Vote: **REP. HARRINGTON MOVED HB 469 DO PASS.** Motion carried 10 to 8 with **REPS. BRANDEWIE, DOLEZAL, HERRON, MILLS, ROSE, SPRING, WYATT,** and **HANSON** voting no. **EXHIBIT 2**

EXECUTIVE ACTION ON HB 494

Motion: **REP. DOLEZAL MOVED HB 494 DO PASS.**

Discussion:

REP. WALLIN asked if the bill requires a fiscal note. **REP. HANSON** replied a fiscal note would apply to a individual local school district not to the state fund.

HOUSE OF REPRESENTATIVES

Education and Cultural Resources **COMMITTEE**

ROLL CALL **DATE** 2/15/03

NAME	PRESENT	ABSENT	EXCUSED
REP. SONNY HANSON , CHAIR	✓		
REP. ALVIN ELLIS , VICE-CHAIR	✓		
REP. DIANA WYATT , VICE-CHAIR	✓		
REP. RAY BRANDEWIE	✓		
REP. FRITZ DAILY	✓		
REP. ERVIN DAVIS	✓		
REP. ED DOLEZAL	✓		
REP. DAN HARRINGTON	✓		
REP. JACK HERRON	✓		
REP. BOB GERVAIS			✓
REP. BEA MCCARTHY	✓		
REP. SCOTT MCCULLOCH	✓		
REP. NORM MILLS	✓		
REP. BILL REHBEIN	✓		
REP. SAM ROSE	✓		
REP. DICK SIMPKINS			✓
REP. WILBUR SPRING	✓		
REP. NORM WALLIN	✓		

EXHIBIT 1
DATE 2/15/93
HB 469

HOUSE OF REPRESENTATIVES

Education and Cultural Resources COMMITTEE

ROLL CALL VOTE

DATE 2/15/93 BILL NO. HB 469 NUMBER

MOTION: DO NOT PASS

NAME	AYE	NO
Rep. Ray Brandewie	✓	
Rep. Fritz Daily		✓
Rep. Ervin Davis		✓
Rep. Ed Dolezal	✓	
Rep. Dan Harrington		✓
Rep. Jack Herron	✓	
Rep. Bob Gervais		✓
Rep. Bea McCarthy		✓
Rep. Scott McCulloch		✓
Rep. Norm Mills	✓	
Rep. Bill Rehbein		✓
Rep. Sam Rose		✓
Rep. Dick Simpkins		✓
Rep. Wilbur Spring	✓	
Rep. Norm Wallin		✓
Rep. Diana Wyatt	✓	
Rep. Alvin Ellis		✓
Rep. Sonny Hanson	✓	

7 11

EXHIBIT 2
DATE 2/15/93
HB 469

HOUSE OF REPRESENTATIVES

Education and Cultural Resources COMMITTEE

ROLL CALL VOTE

DATE 2/15/93 BILL NO. HB 469 NUMBER

MOTION: DO PASS

NAME	AYE	NO
Rep. Ray Brandewie		✓
Rep. Fritz Daily	✓	
Rep. Ervin Davis	✓	
Rep. Ed Dolezal		✓
Rep. Dan Harrington	✓	
Rep. Jack Herron		✓
Rep. Bob Gervais	✓	
Rep. Bea McCarthy	✓	
Rep. Scott McCulloch	✓	
Rep. Norm Mills		✓
Rep. Bill Rehbein	✓	
Rep. Sam Rose		✓
Rep. Dick Simpkins	✓	
Rep. Wilbur Spring		✓
Rep. Norm Wallin	✓	
Rep. Diana Wyatt		✓
Rep. Alvin Ellis	✓	
Rep. Sonny Hanson		✓

10 8

HOUSE STANDING COMMITTEE REPORT

February 16, 1993

Mr. Speaker: We, the committee on Education and Cultural Resources report that House Bill 469 (first reading copy -- white) do pass .

Signed: _____
Sonny Hanson, Chair

Committee Vote:
Yes ___, No ___.

Representative John Johnson, House District 23, Glendive, said there is conflict between two of the bills and the third one can easily be settled by amending a small portion into one of the other bills. At the present time HB 424 is a part of HB 398 and will help to resolve the situation so there will only be the two bills to consider. HB 398 does three things, establishes tuition on a statewide basis as a flat rate, page 1, line 20-22 and on page 2, line 14 through 19 sets how the statewide ANB will be established. Second, on page 2 at the bottom of the page and top of page 3, line 3, the tuition for out of district placement for a student without disabilities who requires a higher than average cost in elementary and on page 6 line 11-18 is the portion that applies to HB 424.

Chair Blaylock asked Representative Johnson if this is exactly what is in Representative Spring's bill and was told yes and agreed that as long as this is in HB 398 we will not need HB 424. Representative Spring and Harry Erickson had been consulted and agreed.

Representative Johnson said page 9, section 5 deals with the high school, and in some instances the laws are different and this would bring the two together. Page 10, line 19 gives the same basis for statewide tuition to ANB. On page 11, line 7 through 12 the same wording for out of district placement for high school students that would go to such a facility. The remainder of the bill is section laws as they read now. On page 15, line 9 through 15 is the special education funds that you found in Representative Spring's bill. He said he had some copies of suggested amendments and would give them to the committee if they so desired.

HEARING ON HOUSE BILL 469

Opening Statement by Sponsor:

Representative Vicki Cocchiarella, House District 59, Missoula, apologized for these coming to the Senate in the form they are in. This bill comes from work done by the County Superintendent of Missoula and Flathead Counties, as well as concerned trustees and administrators, mostly in the Western part of the state. She did not believe there was as much conflict as it appears on the surface since there are many elements in her bill that are not very unlike Representative Johnson's bill. The effort of County Superintendent Rachel Vielleux and the group she worked with was to completely rewrite the tuition law to make it easier for school districts to apply tuition and be able to read the codes in the appropriate spot since the present law is difficult to sort out when trying to see how this works in school districts. She said her bill is a "no tuition" bill for regular education students which leaves it up to the local district to decide if they want to participate. There is no tuition for any district, and it is up to the local district to decide whether to accept a

regular education student in their district. It is a school choice bill. This is in conflict with HB 398, since that bill asks for flat rate tuition in the districts where they want to do tuition. 75% of the districts in Montana do not have any tuition for regular students, and her bill addresses that, tries to make it the same and tries to equalize for all districts in the state. If no tuition, it is fair for everyone and everyone is operating in the same way. She has some amendments proposed which would have that portion of Representative Johnson's amendment. It is a policy issue this committee should decide--whether it is appropriate for regular students to have tuition or to have no tuition allowing local control and local decisions be made as to whether a student can come to their school or not. She said on page 3 this bill looks at districts like the Blue Creek School District, where there is an arrangement with Lockwood School District out of Billings, to take their middle school children. The bill provides that there can be a tuition or an arrangement for payment that way. On page 3, section 2, mandatory placements have tuition that goes with them and it also provides for special ed tuition. They are not taking away those payments, but are asking that payments be made in an equal manner. At the present time elementary districts pay from district funds for tuition, high school districts pay out of county equalization funds and they are asking that this be made the same and that both high school and elementary operate in the same manner when it comes to tuition.

Representative Cocchiarella said a meeting was held early last week with school boards associations, school administrators, Dori Nielson, herself and Representative Johnson where they discussed the two bills. She pointed out the points that were agreeable to everyone at that meeting and said they agreed flat rate in the state might be easier to deal with than the no tuition provision in her bill. She said they also talked about who pays when you have special placements and expensive program placements and those should be paid for out of county equalization because they are state issues, but if it is another kind of situation the flat rate tuition should come from the districts. She said this was a change and is not addressed in either bill.

Chair Blaylock asked if those were not addressed if they are in agreement that they should be addressed. Representative Cocchiarella said yes, at least from the group they had. Basically they are addressed in her bill, trying to make them the same, but her bill went further because flat rate was not in it, and they agreed that flat rates should come from districts.

Chair Blaylock said he believed it would be easier to understand the problems if she would tell them what things the group disagreed on between her bill and Rep. Johnson's bill.

Representative Cocchiarella said the biggest issue is flat rate versus no tuition. She said yesterday they had 14 amendments to Representative Johnson's bill, today we have about 8 in her bill

and one on his so it is improving. She said her bill also contains Representative Spring's HB 424.

Dori Nielson said her office does not work with county tuition, but both bills contain components that address issues that are very real and genuine. Much of what is addressed in both bills are not conflicting, but representing two perspectives and points of view. The problem is now that both bills are written and in order to edit those parts together, some decisions need to be made as to whether it will be a 14 page edit or an 8 page edit and whether you will meld some of the concepts or not. The components that **could** work are decisions this committee may have to make and then edit to be rewritten. She said HB 469 does not have the three key components HB 398 has and blending all those elementary and high school statutes together are not in his, but could be rewritten.

HEARING ON HOUSE BILL 424

Opening Statement by Sponsor:

Representative Wilbur Spring, House District 77, Belgrade, said since this bill would be incorporated in either of the other two bills it could be tabled so it was available later if the other two bills did not go through. He said Mr. Erickson was available for questions, and explained the necessity for his bill was a major concern in his area.

Senator Waterman said she needed Representative Spring to briefly explain the problem he is trying to solve. Harry Erickson, Superintendent of Schools at Belgrade, said they had three districts that had multi-handicapped kids and they had a good program at Belgrade, so Manhattan and Three Forks opted to send their kids to Belgrade about six months ago, in the spirit of co-oping. Under the old system Belgrade wound up funding those kids from their general fund, because although they paid tuition, the tuition was credited to the general fund budget which puts it over statutory limits and it goes back to reduce the levy. They were unable to utilize those dollars to fund the program and had gotten to the point this year, in the budget crunches they are in, that they would have to either be able to utilize those dollars or quit taking out-of-district placements. This would have cost the other districts more money since each district would be spending about $50,000 for a multi-handicapped program. At the present time, only one district is paying that amount but is handling kids for three districts. As long as this is included in the other bills, he would agree with Representative Spring that this bill should be tabled so if the other bills ran into trouble they would still need something to cover their problem.

It was decided to have proponents of each bill speak and questions as to whether, section by section, there are problems

with the bill. Chair Blaylock said there was a lot more expertise here than the committee has, because these are their bills. Senator Waterman opted for testimony on the bills so the committee members could reach a decision as to what was wanted, then address the problems and follow up by deciding how to do so technically.

Chair Blaylock asked the committee if they would like to hear all the proponents and opponents on the bills, or just on the concepts that are contained in these bills. Senator Waterman said she would like to hear the proponents and opponents of all the bills but to have them clearly identify which bill they are speaking on, whether on all three, or suggest what is taken from one bill and added to another which would be helpful. She did not think they should have to get up three times on three bills.

Ms. McClure said it would also be helpful for her as staff to have them tell the committee where whatever they are speaking on is at and in which bill.

Proponents for HB 398 and 469:

Rachel Vielleux, Missoula County Superintendent of Schools, said she was speaking as a proponent for HB 469. One of the differences between these two bills, which is a conceptual difference, can be given with the example of Helena. Students from Jefferson County live, by the dictates of current statute, a certain number of miles from their home school and closer to another high school, may attend Helena High school and Jefferson County equalization pays tuition for that attendance. That is under current statute, it is under Representative Johnson's bill but under Representative Cocchiarella's bill that would no longer occur. She said that is in the new section 1, and said section 2, attendance of mandatory approval drops all the language that talks about distances, except where it says the only mandatory approval is for agency placements. In Helena this is in excess of $200,000 in high school and around $300,000 in the elementary, however HB 469 was predicated on the premise that this Legislature would also come up with school equalization of some sort. If that does occur, the tuition issue is moot. The major difference between these two bills is that we have schools of choice but districts can still refuse to admit students. They must draft policies which address under what circumstances this would happen under, primarily we would assume that would be excess student loads and violation of accreditation standards. She did not believe there would be a problem if schools of choice are not the committee's wish, that would not be difficult to amend into HB 469. She suggested HB 469 was a good vehicle for that manipulation because it is an over all simplification and rewrite of the tuition statutes that make it easy to understand in layman's terms. She said transportation for students that are tuition students is a new section and she believed it was in Representative Johnson's bill and would hope it would stay in the finished bill.

Don Waldron, Montana Rural Education Association, said they do support HB 398. There have been some amendments proposed and they support those as well as the concept of HB 424 and support everything in HB 469 except doing away with the tuition. He handed out a letter from Dan Martin in Glendive. (exhibit 1) He urged a do pass on HB 398 along with the amendments.

Willie Day, Eastern Montana Lobbying Coalition, said they support House Bill 398. He mentioned the Home on the Range in North Dakota that has placements from Eastern Montana. He said they are not in favor of doing away with tuition.

Loren Frazier, School Administrators of Montana said they support HB 424 because in prior testimony given by the sponsor and Mr. Erickson, they left out one important part. The money that is received in this tuition Mr. Erickson is after, goes to the program. Special Ed tuition is spent in that special ed program. He also wanted to make it clear that if there are foggy days for the other two bills, he would urge the committee to consider HB 424 which takes care of an issue we need to have more of in the state. They support HB 398 and all of the concepts that are in it. He said he had some problems with HB 469 in that it is possibly a bill before it's time because we do not have equalization. The no tuition is something he has a problem with and gave the example of Culbertson which has one elementary school and several high schools and they would not survive without the tuition they are charging. He believed Helena, Great Falls and some of the other cities charging tuition would also have a problem with no tuition. He mentioned the flat tuition charge and said a lot of the districts do not charge tuition because it is almost too complicated to figure if you don't have a lot of students coming in and flat tuition makes this much simpler.

Bruce Moerer, School Boards Association, said they believe they need HB 424, it is an important concept and also support the concept in House Bill 398. Some districts will not agree with a flat rate since there may be some losers. In HB 469 he would support part of this bill and oppose a part of it. They support making the high school and elementary tuition the same. He said he believed that doing away with tuition would be a problem and until we see how the new funding concepts work out, he believed it was a little premature at this time. He would suggest putting the bills in a subcommittee to work on them and come out with something that would embody the best of HB 469 and 398, and said they would probably have to give a priority to HB 398 and put the parts of 469 into 398.

Opponents to House Bills 398 and 469:

Larry Fasbender, Great Falls Public Schools, said they are not against the whole thing, but it is a difficult situation that has been created for you by sending all of these bills over here without resolving the differences. He believed it had been made

pretty clear that HB 469 was put together predicated on the idea that we will have equalization, and we don't have it yet. Until we do have school equalization HB 469 is premature so far as going to no tuition. There are elements in all of these bills that need to be addressed or they would not be here. They do support the idea that the tuition aspects should be cleaned up and simplified so far as the codes are concerned. The reason he was opposing the legislation as it stands now, is that until we finally see what happens on equalization, we should not be taking any action on any of them. When the equalization legislation comes over and is looked at and is going to pass, then is the time to go back in and do the work on the bills that would make it coordinate with whatever the equalization measure is. Until that time he also believed that it should be put in a subcommittee, resolve the differences in the bills, but wait to see if we have some equalization before final action is taken on these bills.

Questions from the Committee:

Senator Stang said he has a number of school districts that waive tuition and he asked Representative Johnson if his bill would prevent them from doing that and Representative Johnson answered no.

Senator Waterman said we have a bill in Finance and Claims on out-of-district special ed which deals with Inter Mountain and Rivendell etc. and asked Dori Nielson if that conflicts with HB 398. Ms. Nielson said she did not believe so.

Senator Waterman said on HB 424, it sounds like a good program that encourages co-oping in special ed programs. She asked Ms. Nielson if that is the position of OPI or are there other ways we can do that. Ms. Nielson said statute is actually structured at the present time so they can do something that most of them are not doing because of the use of the term "unanticipated" in statute. She said there is no such thing as unanticipated in tuition and statute currently used the term "unanticipated tuition". You know in advance what this is and it is never a surprise. This would make a clarification for those districts in the statute and would allow the districts to use that portion of funds and is addressed in both bills.

Senator Toews said this would be a statewide flat fee and asked if it is based on anything in the foundation schedules and if so which schools. Ms. Nielson said it is a flat rate by current funding category calculated from state expenditures and revenues. HB 398 specifies the flat rate would be determined by looking at expenditures and revenues in the prior year and calculating a flat rate for each category. There would be about 15 different numbers but will be determined amounts so you will know what the number is.

Senator Toews said if a big district is allowing students to go

to a smaller one, which district are we using for a base and Ms. Nielson said the district of attendance.

Senator Waterman asked for the history of why elementary and high school tuition comes out of different funds. Ms. Nielson said her best explanation, from statutes that have not been revised since 1947, is that at one time we had all county high schools, county paid, and that was the revenue source. It appears that never changed and if you talk about an equalization issue, right now some elementary students are required to go to school, even under mandatory provisions, the district pays. High school kids who might not be required to go, go across county lines and technically the state pays for them. County equalization is technically state equalization because we supplement what will get spent there.

Senator Waterman asked Representative Johnson if we don't pass your legislature or some combination of it, what affects would it have on Home on the Range. Representative Johnson said the effect will be that for the extra cost of that program, the receiving district which in this case is the Dawson County High School District, will not receive those costs which are above the tuition.

Senator Waterman asked if that was classified as special ed costs and those are additional educational costs and Representative Johnson said they are in addition to the tuition, in that they may need special counseling or other kinds of programs that are not available or used for the regular students in the high school and are an additional cost. It is estimated this would be between $6500 and $7,000 per student.

Senator Waterman asked why this is not covered like Yellowstone Treatment Center and the others. Representative Johnson said these are not special ed children. They don't need the extra care of special ed nor do they need to be locked up. They are somewhere in between. Ms. Nielson said there are children who are sex offenders etc. who do not need special education and do very well in math, no trouble with algebra, but cannot be placed in a public school setting without special counseling. There are several districts that feel they are or will be impacted by these kids and feel they cannot be responsible by putting them into the regular high school programs and need to be in a special situation only because of the difficulties they have.

Senator Waterman asked if group homes would qualify for this additional funding and Ms. Nielson said only if they can identify the kind of program, within the school, that is required for these children. She said the reason they were in the group home would also enter into it since if they were there because they have no parents or someone did not want them it is one thing, if they are there because they have some severe difficulty being around other children, that would be another thing. Senator Waterman asked about the Yellowstone boys and girls and was told

Waterman asked about the Yellowstone boys and girls and was told that most of that program is special ed, for the first time they have an ANB count.

Senator Waterman said she noticed the fiscal note was $10,000 and as we are moving in the youth services area to community placement, it seemed the financial institutions went with it. Ms. Nielson said it is probably not assumed this is in-state, these kids could be from out-of-state or another district. $10,000 is for the children who are attending out-of-state in elementary and is mandatory placements.

Mr. Erickson said no matter what happens as far as equalization is concerned, it will not fix the problems we are addressing in HB 424. There is not even a bill to address special ed until 1994.

Closing by Sponsor: Representative Johnson closed on House Bill 398 by saying both he and Representative Cocchiarella are amenable to working these bills together. They have agreed on certain concepts that should be in a combined bill if that is what happens. He believed the flat rate and the extra cost per placement in the programs were important. He said the $10,000 deals with some schools on the border of Montana that send their children to North Dakota. To resolve the difference between funding of the elementary and high school is critical and should wind up the same.

Representative Cocchiarella closed on House Bill 469 by saying tuition is a complicated issue and in her bill they would like to give it the clean up language to make it easier for school districts to comply with the law while making it equal and fair for all school districts whether they are high school or elementary. The policy issue in her bill is the no tuition versus the flat tuition of Representative Johnson's bill. She felt it was easy to delineate the key items in these bills and put them together. She believed it would be easier to take her bill and make sure all the items in the other bill were in it. They all believe it is very essential to make it right by making tuition for all districts equal.

Chair Blaylock said both of you have said you are willing to work with us to try to get this put together. He asked what was considered the main sticking point of the bill was and Representative Cocchiarella said to her no tuition is what her bill contains and what she would like, but she is not stuck on it if the main issues can go forward. She said that would probably be the main policy issue, the rest of the issues were agreeable, and it would be up to this committee whether they wanted no tuition or flat rate. Representative Johnson said the change to no tuition is the biggest issue, and how it would be resolved is the main problem. The others are easy to put into either bill.

Senator Brown asked Representative Cocchiarella about the last

two or three years where there has been a "choice" issue where the idea was the school system ought to facilitate parental choice whenever possible. One of the keys to that was to eliminate tuition so basically the student could go to whichever school district he/she wanted to within a city or maybe even a larger area and if this related to the concept of no tuition in her bill. Representative Cocchiarella said yes, but it has nothing to do with private schools and the voucher system, it is just between public schools and allowing parents and children to choose which school they attend as long as the receiving school is willing to accept them.

DISCUSSION ON HOUSE BILL 473

Senator Beck, Senate District 24 said House Bill 473 is up for hearing in this committee Friday and he had a problem with it. It is a constitutional change to allow students to report to the governor six selections to the Board of Regents for that student appointment. He did not believe the students nor anyone else wanted to put this on the ballot and they were proposing a change. They had talked to the Council and there would be too much change in the bill to have it go to statute. There is a statute, 2-15-1508, Appointments to Boards of Public Education, Board of Regents and Conditions, and they are asking that this statute be amended to allow the students to nominate these 6 students. We would amend that statute to put in what they are asking for in the constitutional amendment. They were asking that one member shall be a student of the University System and be chosen by the Governor from a slate of six candidates nominated by the student government of the University System. In order to do this it would take a committee bill and a suspension of the rules to get it on the floor, but he felt it was the proper way to go.

Chair Blaylock agreed the deadline was past for a committee bill and they would have to suspend the rules to get it on the floor. Senator Beck said they had talked with President Van Valkenburg and he had no problems with it. They also talked to Speaker Mercer in the House and he sounded as though they would try to do whatever they could.

Jan Smith, Lobbyist for the Associated Students at MSU, said when they drafted this bill they were working off a proposal we submitted to the Governor. The Governor is in full support, and said go ahead and put it in statute now to set the pace for the future.

Senator Blaylock asked if Ms. Smith's group had asked the Legislative Council to draft the constitutional amendment for this. Ms. Smith said when they did this the Legislative Council was under the impression the Student Regent was just like the student member of the Board of Education, which is sort of a political favor. The student of the Board of Ed is not in statute, the student on the Board of Regents is in statute and

ROLL CALL

SENATE COMMITTEE EDUCATION DATE 3/10/93

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BLAYLOCK, Chair	✓		
SENATOR FRITZ, V.C.	✓		
SENATOR BROWN	✓		
SENATOR BRENDEN	✓		
SENATOR TOEWS	✓		
SENATOR HERTEL	✓		
SENATOR WILSON	✓		
SENATOR WATERMAN	✓		
SENATOR YELLOWTAIL	✓		
SENATOR STANG	✓		

F08

Attach to each day's minutes

DATE March 10, 1993

SENATE COMMITTEE ON Education

BILLS BEING HEARD TODAY: HB 398, 424, 469

Name	Representing	Bill No.	Check One Support	Oppose
Ken Avison	Fairview School	398		
Vickie Cayko	Fairview, mt	398		
Dennis Trudell	"	398		
Cheryl Tveit	"	398		
[illegible]	"	398		
Gary D. [illegible]	Bridger	424		
Loren Tracy	SAM	424	✓	
"	"	398	✓	
Larry [illegible]	Great Falls Pub. Schools	469 424 398	✓	✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F1C

MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION

Call to Order: By Senator Blaylock, on March 19, 1993, at 3:25 p.m.

ROLL CALL

Members Present:

Sen. Chet Blaylock, Chair (D)
Sen. Harry Fritz, Vice Chair (D)
Sen. John Brenden (R)
Sen. Bob Brown (R)
Sen. John Hertel (R)
Sen. Spook Stang (D)
Sen. Daryl Toews (R)
Sen. Mignon Waterman (D)
Sen. Bill Wilson (D)
Sen. Bill Yellowtail (D)

Members Excused: Senator Spook Stang

Members Absent: None

Staff Present: Eddye McClure, Legislative Council
Sylvia Kinsey, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	None		
Executive Action:	HB 398	HB 424	HB 469
	HB 202	HB 210	HB 443
	HB 473	HB 527	

EXECUTIVE ACTION ON HB HOUSE BILL 469

Chair Blaylock said there is a "gray" bill (exhibit 1) which shows the changes made in the subcommittee. He said he and Senator Hertel were the Senators on the committee, they met and had an extremely productive meeting. The gray bill has included the three points in Representative Johnson's bill as well as the inclusion of Representative Springs bill and incorporated these into HB 469. He asked Rachel Vielleux, County Superintendent of Schools in Missoula County who was extremely helpful to the committee and understands the bill thoroughly, to explain the highlights of the bill, where Representative Spring's material as

well as Representative Johnson's material and the changes she had been concerned about, especially on the rates between elementary and high school, were taken care of in the gray bill.

Rachel Vielleux said she believed this contained all the changes which caused concern so that this bill will work and retain the best qualities of each. She said sections 1,2 and 3 is mostly language already in the statute except that elementary and high school tuition are now the same. Mandatory and other tuition requires payment of tuition, where initially there was no tuition in this bill except for mandatory placements. The flat rate is now in the bill and is based on school size so small schools will be paid at a different rate than the larger schools. In section 4, page 10 we have added Representative Johnson's concerns to the bill. The concern for schools like Home on the Range, which take regular ed students that cost more because of the kind of facility and treatment they need. Representative Johnson wanted to be able to charge actual cost for those kids and that is in the bill on page 11, subsection 3. Concern for those kids on the eastern border was that the district sending the kids was not receiving any state ANB for them, so they were having to pay some district in N.D. a large amount and we added into the bill, section 5, page 13, subsection 4 which will take care of that concern. Representative Spring's concern in HB 424 which is where the money goes, once it is received for tuition payments, is in section 5, pages 15-16. She said the other thing they have done is to make sure all of these mesh together and most of the primary work is in the first 16 pages. This one bill, HB 469 includes everything that was in 398 and 424.

Chair Blaylock referred Ms. Vielleux to page 5, line 5 where it says "the tuition rate must be reduced by the amount the parent or guardian of the child paid in district and county property taxes during the immediately preceding school fiscal year for the benefit and support of the district in which the child will attend school". He asked if this was correct and Ms. Vielleux said that is current statute language and explained to the committee how it worked.

Chair Blaylock asked why it was necessary to repeat section c on page 8 between lines 7 and 9 since it is stated before. Ms. Vielleux said there are two different ways of applying tuition, one is mandatory and the other is discretionary. To make sure the trustees waive equally in both sections, it is in there twice.

Chair Blaylock referred to page 11 between lines 18 and 22, "For a Montana resident student, the average district per-ANB foundation payment amount received in the year for which the tuition charges are calculated must be subtracted from the per-student program costs for a Montana resident student", and asked what it does. Ms. Vielleux said that is the section that deals with the kids, for example, that would go to the Home on the Range. They are receiving an ANB cost for that kid so we do not

want to pay them that plus whatever the extra cost would be. It would take the ANB cost out and the cost over that would be what is paid.

Chair Blaylock referred to page 23 which addresses the kids who may go out of state, and asked if the provinces should be listed there as they are in the other places in the bill. Ms. Vielleux said yes, they should probably be in there and should probably be on line 8.

Senator Toews referred to page 5 which Ms. Vielleux had said was all in current language. It appeared to him that this would be going back to a choice system and was taking taxes paid in one district and moving it to another school district. Ms. Vielleux said she had not explained this well, it does not happen very often. If you want to send your child to district B and live in district A, own property in district B, you are actually paying taxes to that district already. If you had to pay tuition and those taxes, the burden would be doubled, so we are saying you will pay the tuition flat rate minus the difference you have directly paid to district B for taxes. If there is no voted levy, there would be no reduction. She said that is already in the law in the high school section.

Senator Waterman asked about section 4 where it talks about group homes and the special costs. She said there are a number of homes in Helena and asked if District 1 would also qualify, and if not, why not. Dori Nielson said the discussions they have had is that the intent is only if those children require specific programs. Children that might be a danger to themselves or to other children in school so the school actually provides a more expensive program so they cannot transition them into the regular classroom. She mentioned an arsonist, a sex offender, etc. which require specific programs and is the concerns that would be addressed.

Senator Waterman asked if there might be other facilities other than Home on the Range that might have those students and have the special programs. Ms. Nielson said that was the intent of the section and was a concern of Representative Johnson which he addressed.

Senator Toews said when we listened to SB 210, he believed it said we pay ANB on the receiving school district, line 22 on page 13. Now it says we pay ANB on the resident district. Ms. Vielleux said this is for kids attending out-of-state and it would help them with that tuition costs for an out-of-state kid.

Chair Blaylock thanked Ms. Nielson for her help on the bill and asked if she had anything she would like to add. She said the only thing was that she had made contact with some of the school districts that were concerned. She contacted Culbertson, checked into what happened at Fairview and Westview and believed Ms. Vielleux had spoken to people in Ekalaka. She said she had

spoken to local people and tried to look at all those districts that had revenues and expenditures that exceeded $20,000. There are only about 15 districts that receive more than $20,000 and only about 15 districts that spend more than $20,000 and those districts are impacted. The other districts would have a less significant impact no matter what is done with tuition, but for those 15 it is important. To her knowledge no one had heard a negative reaction from those districts.

Ms. McClure said when they did the "gray" bill she had told both Ms. Vielleux and OPI to go through it to see that the internal references worked. There are about four little glitches which are on four different pages. She said the first was in the statement of intent, page 2, line 7 and this should be changed because there is no new rule making authority in that. On line 22 after the word "guardian" of a child we inserted a phrase that says "as defined in 41-3-603" which would take care of the technical question of the definition of guardian. On page 14, line 4, subsection 6, Ms. Nielson suggested these should be broken into two subsections because one is an exception to the other, and it should read following "~~mandatory~~" insert the language "except as provided in subsection 7. On line 6 we would need an amendment that would strike the words "but within the child's county of residence".

Ms. Nielson said when she and Ms. Vielleux read this section over they realized they had left "sort of a hole". If you are out-of-county and not mandatory, it was not covered. We needed to get this one, which was the most difficult to mesh, together. She said this and the subsection 7 would cover everybody.

Chair Blaylock asked Ms. Nielson to read the change and she read "except as provided in subsection 7 when a child has approval to attend a school outside the child's district of residence under the provisions of sections 1 or 2" and complete that sentence. On line 10 insert section 7 following "fund" and before "when a child has mandatory approval" etc. She said that will cover everybody and take care of the gap.

Ms. McClure said renumbering would be taken care of in the amendments and then referred the committee to page 29 where "trustees of the district" had been stricken and language should be reinserted. Since this is an amendment on the gray bill she would not have to strike "county superintendent of the county", on the blue bill she would simply have to reinsert the stricken language.

Ms. McClure said on the last page of Representative Johnson's House Bill 398, there was a request for the code commissioners to renumber a section as a different number. In HB 469 they were going to repeal that section. We need a new section 21 that would instruct the code commissioner to renumber 20-7-437 and put it in Title 20 Chapter 5. This has always been out of place, we did it in 398 and it was supposed to be done in this bill. She

said this did not change anything, just put this where it belonged. In a couple places in the bill the word "province" has been added, in some we did not and that will be taken care of.

Representative Johnson thanked the committee and those participating in combining these bills and said he appreciated the work they had done.

Motion/Vote: Senator Fritz moved the committee give Ms. McClure permission to make the above changes in the bill. The motion CARRIED unanimously, Senator Stang was absent.

Motion/Vote: Senator Fritz moved all the amendments represented in the "gray" bill. Motion CARRIED, Senator Stang absent.

Motion/Vote: Senator Fritz moved House Bill 469 BE CONCURRED IN AS AMENDED. Motion CARRIED unanimously with Senator Stang absent and Senator Waterman to carry the bill.

EXECUTIVE ACTION ON HOUSE BILL 424

Motion/Vote: Senator Fritz moved House Bill 424 BE TABLED. Motion CARRIED unanimously, Senator Stang absent.

EXECUTIVE ACTION ON HOUSE BILL 398

Motion/Vote: Senator Fritz moved House Bill 398 BE TABLED. Motion carried unanimously with Senator Stang being absent.

EXECUTIVE ACTION ON HOUSE BILL 202

Motion: Senator Waterman moved House Bill 202 BE CONCURRED IN AS AMENDED.

Discussion: Chair Blaylock said this is the bill that our amendment took out the attendance centers, and this bill is needed to make some changes requested by OPI.

Vote: The motion CARRIED unanimously with Senator Stang being absent. Senator Toews to carry the bill.

EXECUTIVE ACTION ON HOUSE BILL 210

Senator Toews said the committee had taken care of House Bill 202 and felt there was no further need for House Bill 210.

Motion/Vote: Senator Toews moved House Bill 210 BE TABLED. Motion CARRIED unanimously, Senator Stang was absent.

EXECUTIVE ACTION ON HOUSE BILL 443

Motion/Vote: Senator Fritz moved to accept the amendments (exhibit 3). Motion CARRIED unanimously, Senator Stang was

ROLL CALL

SENATE COMMITTEE EDUCATION DATE 3-19-93

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BLAYLOCK, Chair	✓		
SENATOR FRITZ, V.C.	✓		
SENATOR BROWN	✓		
SENATOR BRENDEN	✓		
SENATOR TOEWS	✓		
SENATOR HERTEL	✓		
SENATOR WILSON	✓		
SENATOR WATERMAN	✓		
SENATOR YELLOWTAIL	✓		
SENATOR STANG			✓

FC08

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

March 22, 1993

MR. PRESIDENT:
We, your committee on Education and Cultural Resources having had under consideration House Bill No. 469 (first reading copy -- white), respectfully report that House Bill No. 469 be amended as follows and as so amended be concurred in.

Signed: Chet Blaylock
Senator Chet Blaylock, Chair

That such amendments read:

1. Title, line 4.
Following: "ACT"
Insert: "REVISING THE TUITION LAWS;"

2. Title, line 7.
Following: first "OF"
Insert: "THE RESIDENT DISTRICT AND"

3. Title, line 9.
Following: "THE"
Insert: "DISTRICT OR"

4. Title, line 11.
Following: "APPROVAL;"
Insert: "PROVIDING TUITION RATES FOR SPECIFIC PROGRAMS; ALLOWING A SCHOOL DISTRICT TO DIRECT OUT-OF-DISTRICT TUITION THROUGH THE MISCELLANEOUS PROGRAMS FUND;"

5. Title, line 14.
Strike: "AND"
Following: "20-10-144,"
Insert: "AND 20-10-146,"

6. Title, line 16.
Following: "20-5-312,"
Insert: "AND"
Following: "20-5-313,"
Strike: "AND 20-7-437,"

7. Page 1, line 23 through page 2, line 1.
Following: "regarding" on line 23
Insert: "a flat"
Following: "tuition"
Strike: "rates"
Insert: "rate"
Following: "for" on line 23

Amd. Coord.
___ Sec. of Senate

W Termer
Senator Carrying Bill

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Strike: remainder of line 23 through "bill" on page 2, line 1
Insert: "each funding category in the foundation program schedules, using statewide district expenditure and revenue data for certain funds"

8. Page 2, line 7.
Following: "residence"
Insert: "or a public school in a district of another state or province that is adjacent to the county of the child's residence"

9. Page 2, line 8.
Following: first "of"
Insert: "the resident district and"

10. Page 2, line 10.
Following: "may"
Strike: "not"

11. Page 2, line 11.
Following: "tuition"
Strike: "but"
Insert: "and"

12. Page 2, line 12.
Following: "(2)"
Insert: "(a)"

13. Page 2, line 19.
Strike: "(3)"
Insert: "(b)"

14. Page 2, line 20.
Following: "any,"
Strike: "of each party"
Insert: "for tuition and"

15. Page 2, lines 22 through 25.
Following: "10."
Strike: remainder of line 22 through "(4)" on line 25
Insert: "(c) The trustees of the district of choice may waive any or all of the tuition rate, but any waiver must be applied equally to all students.

(3) An out-of-district attendance agreement approved under this section requires that the parent or guardian initiate the request for an out-of-district attendance agreement and that the trustees of both the district of residence and the district of choice approve the agreement.

(4) If the trustees of the district of choice waive tuition, approval of the resident district trustees is not required.

(5) The trustees of a school district may approve or disapprove the out-of-district attendance agreement consistent with this part and the policy adopted by the local board of trustees for out-of-district attendance agreements.

(6) The approval of an out-of-district attendance agreement by the applicable approval agents or as the result of an appeal must authorize the child named in the agreement to enroll in and attend the school named in the agreement for the designated school year.

(7)"

Renumber: subsequent subsections

16. Page 3, lines 2 through 5.
Following: "agreement."
Strike: remainder of line 2 through "days." on line 5

17. Page 3, line 7.
Following: "for"
Strike: "group"

18. Page 3, line 8.
Following: "offerings"
Strike: "with another district"
Insert: "not provided by the resident district, such as the kindergarten or grades 7 and 8 programs,"

19. Page 3, lines 11 through 13.
Following: "requirement." on line 11
Strike: remainder of line 11 through "funds." on line 13
Insert: "For purposes of this subsection, the trustees of the resident district shall initiate the out-of-district agreement.

(9) (a) A provision of this title may not be construed to deny a parent the right to send a child, at personal expense, to any school of a district other than the resident district when the trustees of the district of choice have approved an out-of-district attendance agreement and the parent has agreed to pay the tuition as prescribed by [section 4]. However, under this subsection (9), the tuition rate must be reduced by the amount the parent or guardian of the child paid in district and county property taxes during the immediately preceding school fiscal year for the benefit and support of the district in which the child will attend school.

(b) For the purposes of this section, "parent or guardian"

includes an individual shareholder of a domestic corporation as defined in 35-1-113 whose shares are 95% held by related family members to the sixth degree of consanguinity or by marriage to the sixth degree of affinity.

(c) The tax amount to be credited to reduce any tuition charge to a parent or guardian under subsection (9)(a) is determined in the following manner:

(i) determine the percentage of the total shares of the corporation held by the shareholder parent or parents or guardian;

(ii) determine the portion of property taxes paid in the preceding school fiscal year by the corporation, parent, or guardian for the benefit and support of the district in which the child will attend school.

(d) The percentage of total shares as determined in subsection (9)(c)(i) is the percentage of taxes paid as determined in subsection (9)(c)(ii) that is to be credited to reduce the tuition charge.

(10) As used in [sections 1 through 5], the term "guardian" means the guardian of a minor as provided in Title 72, chapter 5, part 2."

20. Page 3, lines 16 and 17.
Following: "agreement" on line 16
Strike: remainder of line 16 through "transportation," on line 17
Insert: "that allows a child to enroll in and attend a school in a Montana school district that is outside of the child's district of residence or in a public school district of a state or province that is adjacent to the county of the child's residence"

21. Page 3, lines 17 through 20.
Following: "mandatory" on line 17
Strike: remainder of line 17 through "child" on line 20

22. Page 3, line 21.
Following: line 20
Insert: "(a) the child resides closer to the school that the child wishes to attend and more than 3 miles from the school the child would attend in the resident district;

(b) the child resides in a location where, due to road or geographic conditions, it is impractical to attend the school nearest the child's residence;

(c) the child is a member of a family who must send another child outside of the elementary district to attend high school and the child of elementary age may more conveniently attend an elementary school where the high school is located, provided the child resides more than 3 miles from an elementary school in the

resident district or the parent must move to the elementary district where the high school is located to enroll another child in high school;"

Renumber: subsequent subsections

23. Page 4, line 3.
Following: "residence;"
Insert: "or"

24. Page 4, lines 7 through 10.
Following: "jurisdiction" on line 7
Strike: "; or" through "4" on line 10

25. Page 4, line 11.
Following: "(2)"
Insert: "(a)"

26. Page 4, line 17.
Following: line 16
Insert: "(b) The attendance agreement must set forth the financial obligations, if any, for costs incurred for tuition and transportation as provided in [section 4] and Title 20, chapter 10.

(c) The trustees of the district of choice may waive any or all of the tuition rate, but any waiver must be applied equally to all students."

27. Page 4, line 17.
Following: "trustees"
Insert: "of the resident district and the trustees of the district of choice"

28. Page 4, line 21.
Following: "days."
Insert: "The county superintendent shall approve the agreement for payment under [section 5(6)]."

29. Page 5, lines 4 through 6.
Strike: subsection (5) in its entirety

30. Page 5, line 12.
Following: "(2)"
Strike: "The"
Insert: "Within 10 days of the initial application for an agreement, the"
Following: "trustees"
Insert: "of the district of choice

31. Page 5, line 13.
Following: "child"
Insert: "and the trustees of the district of residence"

32. Page 5, line 14.
Following: "the"
Strike: "approximate"
Insert: "anticipated"

33. Page 5, lines 15 and 16.
Following: "agreement" on line 15
Strike: remainder of line 15 through "agreement" on line 16

34. Page 5, line 22.
Following: line 21
Insert: "(4) Within 15 days of receipt of an approved out-of-district attendance agreement, the trustees of the district of residence shall approve or disapprove the agreement under the provisions of this part and forward the completed agreement to the county superintendent of schools of the county of residence, the trustees of the district of choice, and the parent or guardian."
Renumber: subsequent subsection

35. Page 6, line 4.
Following: "(1)"
Strike: "Whenever"
Insert: "Except as provided in subsections (3) and (4), whenever"
Following: "has"
Strike: "mandatory"

36. Page 6, lines 6 through 16.
Following: "provisions of" on line 6
Strike: remainder of line 6 through "instruction." on line 16
Insert: "[section 1 or 2], the basis of the rate of tuition is a flat rate for each funding category in the foundation program schedules determined by rule by the superintendent of public instruction by March 15 of each year, using statewide district expenditure and revenue data for the general fund, debt service fund, and retirement fund to determine the average district contribution.

(2) The tuition for children with disabilities must be determined under rules adopted by the superintendent of public instruction for the calculation of tuition for special education pupils.

(3) The tuition rate for out-of-district placement pursuant to [section 2(1)(d) and (1)(e) for a student without disabilities who requires a program with costs that exceed the average

district costs must be determined as the actual individual costs of providing that program according to the following:

(a) the district of attendance and the district, person, or entity responsible for the tuition payments shall approve an agreement with the district of attendance for the tuition cost; and

(b) for a Montana resident student, the average district per-ANB foundation payment amount received in the year for which the tuition charges are calculated must be subtracted from the per-student program costs for a Montana resident student."

Renumber: subsequent subsections

37. Page 6, line 17.
Following: "child"
Strike: "without disabilities"
Insert: "attends a public school of another state or province or"

38. Page 7, line 3.
Following: "4;"
Strike: "or"

39. Page 7, line 4.
Following: "state"
Insert: "or province"

40. Page 7, line 5.
Following: "20-5-314"
Strike: "."
Insert: "; or"

41. Page 7, line 6.
Following: line 5
Insert: "(c) an order issued under Title 40, chapter 4, part 2."

42. Page 7, line 25.
Following: "child"
Insert: "; and

(d) the names, districts of attendance, and amount of tuition to be paid by the district for resident students attending public schools out of state"

43. Page 8, line 5.
Following: line 4
Insert: "(3) Before July 30, the county superintendent shall report the information in subsection (1)(d) to the superintendent of public instruction.

(4) The superintendent of public instruction shall

determine the total foundation amount for which the district would be eligible if the student were enrolled in the resident district. The reimbursement amount is the difference between the actual amount paid and the amount calculated in this subsection.

(5) Notwithstanding the requirements of subsection (6), tuition payment provisions for out-of-district placement of students with disabilities must be determined pursuant to Title 20, chapter 7, part 4."

Renumber: subsequent subsections

44. Page 8, line 5.
Strike: "The mandatory"
Insert: "Except as provided in subsection (7), when a child has approval to attend a school outside the child's district of residence under the provisions of [section 1 or 2], the district of residence shall finance the tuition amount from the district tuition fund and any transportation amount from the transportation fund.

(7) When a child has mandatory approval under the provisions of [section 2], the"

45. Page 8, line 7.
Following: "child's"
Strike: "district"
Insert: "county"

46. Page 8, lines 9 through 13.
Following: "residence" on line 9
Strike: remainder of line 9 through "by" on line 13
Insert: "or for a high school child attending a school outside the county of residence by"

47. Page 8, line 17.
Following: "superintendent"
Insert: "or the trustees"

48. Page 8, line 21.
Following: "20-9-334"
Insert: "or from the district tuition or transportation fund"

49. Page 9, line 1.
Strike: "(5)"
Insert: "(10)"

50. Page 9, line 7.
Following: line 6
Insert: "(9) The superintendent of public instruction shall

reimburse the district of residence from the state equalization account for the foundation amount determined in subsection (4)."
Renumber: subsequent subsection

51. Page 9, line 7.
Following: "(5)"
Insert: "(a)"

52. Page 9, line 8.
Following: "4, or"
Strike: "this part must"
Insert: "[section 4(3)] for the current school fiscal year that exceed the tuition receipts of the prior year may"

53. Page 9, line 9.
Following: "deposited in"
Strike: "a separate account to"

54. Page 9, line 13.
Following: line 12
Insert: "(b) Any other tuition receipts received for the current school fiscal year that exceed the tuition receipts of the prior year may be deposited in the district miscellaneous programs fund and may be used for that year in the manner provided for in that fund. For the ensuing school fiscal year, the receipts must be credited to the district general fund budget."

55. Page 16, line 4.
Following: "state"
Strike: "-- county payment obligation
Insert: "or province"

56. Page 16, lines 8, 11 and 12.
Following: "state"
Insert: "or province"

57. Page 16, line 6.
Page 16, line 13.
Page 16, line 18.
Following: "reciprocal"
Strike: "tuition"
Insert: "attendance"

58. Page 16, line 9.
Following: "~~children of~~"
Strike: "for a reciprocal tuition rate for"

Insert: "to allow"

59. Page 16, line 11.
Following: "~~of~~"
Strike: "for"

60. Page 17, lines 3 through 17.
Strike: subsection (3) in its entirety

61. Page 22, lines 9 and 10.
Following: "~~district~~" on line 9
Strike: remainder of line 9 through "county" on line 10
Insert: "trustees of the district"

62. Page 23, line 16.
Following: "attending"
Strike: "an"
Insert: "a state-funded"

63. Page 23, line 17.
Following: "institution"
Strike: remainder of line 17
Insert: "in"

64. Page 23, line 22.
Following: "~~or~~"
Insert: "district or"

65. Page 30, line 12.
Following: "amount"
Insert: "; plus
(e) any estimated costs for transporting a child out of district when the child has mandatory approval to attend school in a district outside the district of residence"

66. Page 33, line 24.
Following: line 23
Insert: "**Section 18.** Section 20-10-146, MCA, is amended to read:
"**20-10-146. County transportation reimbursement.** (1) The apportionment of the county transportation reimbursement by the county superintendent for school bus transportation or individual transportation that is actually rendered by a district in accordance with this title, board of public education transportation policy, and the transportation rules of the superintendent of public instruction must be the same as the state transportation reimbursement payment except that:
(a) if any cash was used to reduce the budgeted county transportation reimbursement under the provisions of 20-10-

144(2)(b), the annual apportionment is limited to the budget amount; ~~and~~

(b) when the county transportation reimbursement for a school bus has been prorated between two or more counties because the school bus is conveying pupils of more than one district located in the counties, the apportionment of the county transportation reimbursement must be adjusted to pay the amount computed under the proration; and

(c) when county transportation reimbursement is required under the mandatory attendance agreement provisions of [section 2].

(2) The county transportation net levy requirement for the financing of the county transportation fund reimbursements to districts is computed by:

(a) totaling the net requirement for all districts of the county, including reimbursements to a special education cooperative or prorated reimbursements to joint districts or reimbursements under the mandatory attendance agreement provisions of [section 2];

(b) determining the sum of the money available to reduce the county transportation net levy requirement by adding:

(i) anticipated money that may be realized in the county transportation fund during the ensuing school fiscal year, including anticipated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

(ii) net proceeds taxes and local government severance taxes on other oil and gas production occurring after December 31, 1988;

(iii) coal gross proceeds taxes under 15-23-703;

(iv) any fund balance available for reappropriation from the end-of-the-year fund balance in the county transportation fund. The county transportation fund operating reserve may not be more than 35% of the final county transportation fund budget for the ensuing school fiscal year and must be used for the purpose of paying transportation fund warrants under the county transportation fund budget.

(v) federal forest reserve funds allocated under the provisions of 17-3-213; and

(vi) other revenue anticipated that may be realized in the county transportation fund during the ensuing school fiscal year; and

(c) notwithstanding the provisions of subsection (3), subtracting the money available as determined in subsection (2)(b) to reduce the levy requirement from the county transportation net levy requirement.

(3) The net levy requirement determined in subsection (2)(c) must be reported to the county commissioners on the second

Monday of August by the county superintendent and a levy must be set by the county commissioners in accordance with 20-9-142.

(4) The county superintendent shall apportion the county transportation reimbursement from the proceeds of the county transportation fund. The county superintendent shall order the county treasurer to make the apportionments in accordance with 20-9-212(2) and after the receipt of the semiannual state transportation reimbursement payments.""
Renumber: subsequent sections

67. Page 34, line 1.
Following: "20-5-312,"
Insert: "and"
Following: "20-5-313,"
Strike: "and 20-7-437,"

68. Page 34, line 8.
Following: line 7
Insert: "NEW SECTION. Section 21. Instruction to code commissioner. Section 20-7-437 is intended to be renumbered and codified as an integral part of Title 20, chapter 5."
Renumber: subsequent section

-END-

SENATE EDUCATION
EXHIBIT NO. 1
DATE 3/19/93
BILL NO. HB 469

HOUSE BILL NO. 469

INTRODUCED BY COCCHIARELLA

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TUITION LAWS; PERMITTING A CHILD TO ATTEND A SCHOOL DISTRICT OUTSIDE THE CHILD'S DISTRICT OF RESIDENCE, SUBJECT TO DISCRETIONARY APPROVAL BY THE TRUSTEES OF THE RESIDENT DISTRICT AND THE DISTRICT OF CHOICE; REQUIRING MANDATORY ATTENDANCE APPROVAL BY THE TRUSTEES OF THE DISTRICT OF CHOICE IN CERTAIN CIRCUMSTANCES; REQUIRING THAT THE DISTRICT OR COUNTY OF RESIDENCE PAY ANY TUITION AND TRANSPORTATION OBLIGATIONS ASSOCIATED WITH MANDATORY ATTENDANCE APPROVAL; PROVIDING TUITION RATES FOR SPECIFIC PROGRAMS; ALLOWING A SCHOOL DISTRICT TO DIRECT OUT-OF-DISTRICT TUITION THROUGH THE MISCELLANEOUS PROGRAMS FUND; AMENDING SECTIONS 20-3-205, 20-3-210, 20-5-314, 20-6-702, 20-7-420, 20-7-421, 20-7-422, 20-7-424, 20-9-141, 20-9-507, 20-10-105, ~~AND~~ 20-10-144, AND 20-10-146, MCA; REPEALING SECTIONS 20-5-301, 20-5-302, 20-5-303, 20-5-304, 20-5-305, 20-5-306, 20-5-307, 20-5-311, 20-5-312, 20-5-313, AND 20-7-437, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 4] of the bill gives the superintendent of public

instruction authority to adopt administrative rules regarding A FLAT tuition ~~rates~~ RATE for ~~children attending a school outside the child's district of residence under the mandatory attendance approval requirements in [section 2] of the bill~~ EACH FUNDING CATEGORY IN THE FOUNDATION PROGRAM SCHEDULES, USING STATEWIDE DISTRICT EXPENDITURE AND REVENUE DATA FOR CERTAIN FUNDS AND FOR THE CALCULATION OF TUITION FOR SPECIAL EDUCATION PUPILS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1.** Attendance with discretionary approval. (1) A child may be enrolled in and attend a school in a Montana school district that is outside of the child's district of residence OR A PUBLIC SCHOOL IN A DISTRICT OF ANOTHER STATE OR PROVINCE THAT IS ADJACENT TO THE COUNTY OF THE CHILD'S RESIDENCE, subject to discretionary approval by the trustees of THE RESIDENT DISTRICT AND the district of choice. If the trustees grant discretionary approval of the child's attendance in a school of the district, the parent or guardian may ~~not~~ be charged tuition ~~but~~ AND may be charged for transportation.

(2) (A) Whenever a parent or guardian of a child wishes to have the child attend a school under the provisions of this section, the parent or guardian shall apply to the trustees of the district where the child wishes to attend.

The application must be made on an out-of-district attendance agreement form supplied by the district and developed by the superintendent of public instruction.

~~(3)~~(B) The attendance agreement must set forth the financial obligations, if any, ~~of each party~~ FOR TUITION AND for costs incurred for transporting the child under Title 20, chapter 10. ~~The district of residence and the district of choice may jointly approve the application if the district of residence provides for transportation.~~

~~(4)~~(C) THE TRUSTEES OF THE DISTRICT OF CHOICE MAY WAIVE ANY OR ALL OF THE TUITION RATE, BUT ANY WAIVER MUST BE APPLIED EQUALLY TO ALL STUDENTS.

(3) AN OUT-OF-DISTRICT ATTENDANCE AGREEMENT APPROVED UNDER THIS SECTION REQUIRES THAT THE PARENT OR GUARDIAN INITIATE THE REQUEST FOR AN OUT-OF-DISTRICT ATTENDANCE AGREEMENT AND THAT THE TRUSTEES OF BOTH THE DISTRICT OF RESIDENCE AND THE DISTRICT OF CHOICE APPROVE THE AGREEMENT.

(4) IF THE TRUSTEES OF THE DISTRICT OF CHOICE WAIVE TUITION, APPROVAL OF THE RESIDENT DISTRICT TRUSTEES IS NOT REQUIRED.

(5) THE TRUSTEES OF A SCHOOL DISTRICT MAY APPROVE OR DISAPPROVE THE OUT-OF-DISTRICT ATTENDANCE AGREEMENT CONSISTENT WITH THIS PART AND THE POLICY ADOPTED BY THE LOCAL BOARD OF TRUSTEES FOR OUT-OF-DISTRICT ATTENDANCE AGREEMENTS.

(6) THE APPROVAL OF AN OUT-OF-DISTRICT ATTENDANCE AGREEMENT BY THE APPLICABLE APPROVAL AGENTS OR AS THE RESULT OF AN APPEAL MUST AUTHORIZE THE CHILD NAMED IN THE AGREEMENT TO ENROLL IN AND ATTEND THE SCHOOL NAMED IN THE AGREEMENT FOR THE DESIGNATED SCHOOL YEAR.

(7) The trustees of the district where the child wishes to attend have the discretion to approve any attendance agreement. ~~When--the--trustees--approve--an-out-of-district attendance--agreement,--they--shall--send--a--copy--of---the agreement-to-the-county-superintendent-of-the-child's-county of-residence-within-10-days.~~

~~(5)~~(8) This section does not preclude the trustees of a district from approving an attendance agreement for ~~group~~ educational program offerings ~~with--another--district~~ NOT PROVIDED BY THE RESIDENT DISTRICT, SUCH AS THE KINDERGARTEN OR GRADES 7 AND 8 PROGRAMS, if the trustees of both districts agree to the terms and conditions for attendance and any tuition and transportation requirement. ~~The-trustees of-the-district-of-residence-may-budget--for--those--tuition and--transportation--costs--from--the-district's-tuition-and transportation-funds.~~ FOR PURPOSES OF THIS SUBSECTION, THE TRUSTEES OF THE RESIDENT DISTRICT SHALL INITIATE THE OUT-OF-DISTRICT AGREEMENT.

(9) (A) A PROVISION OF THIS TITLE MAY NOT BE CONSTRUED TO DENY A PARENT THE RIGHT TO SEND A CHILD, AT PERSONAL

EXPENSE, TO ANY SCHOOL OF A DISTRICT OTHER THAN THE RESIDENT DISTRICT WHEN THE TRUSTEES OF THE DISTRICT OF CHOICE HAVE APPROVED AN OUT-OF-DISTRICT ATTENDANCE AGREEMENT AND THE PARENT HAS AGREED TO PAY THE TUITION AS PRESCRIBED BY [SECTION 4]. HOWEVER, UNDER THIS SUBSECTION (9), THE TUITION RATE MUST BE REDUCED BY THE AMOUNT THE PARENT OR GUARDIAN OF THE CHILD PAID IN DISTRICT AND COUNTY PROPERTY TAXES DURING THE IMMEDIATELY PRECEDING SCHOOL FISCAL YEAR FOR THE BENEFIT AND SUPPORT OF THE DISTRICT IN WHICH THE CHILD WILL ATTEND SCHOOL.

(B) FOR THE PURPOSES OF THIS SECTION, "PARENT OR GUARDIAN" INCLUDES AN INDIVIDUAL SHAREHOLDER OF A DOMESTIC CORPORATION AS DEFINED IN 35-1-113 WHOSE SHARES ARE 95% HELD BY RELATED FAMILY MEMBERS TO THE SIXTH DEGREE OF CONSANGUINITY OR BY MARRIAGE TO THE SIXTH DEGREE OF AFFINITY.

(C) THE TAX AMOUNT TO BE CREDITED TO REDUCE ANY TUITION CHARGE TO A PARENT OR GUARDIAN UNDER SUBSECTION (9)(A) IS DETERMINED IN THE FOLLOWING MANNER:

(I) DETERMINE THE PERCENTAGE OF THE TOTAL SHARES OF THE CORPORATION HELD BY THE SHAREHOLDER PARENT OR PARENTS;

(II) DETERMINE THE PORTION OF PROPERTY TAXES PAID IN THE PRECEDING SCHOOL FISCAL YEAR BY THE CORPORATION, PARENT, OR GUARDIAN FOR THE BENEFIT AND SUPPORT OF THE DISTRICT IN WHICH THE CHILD WILL ATTEND SCHOOL.

(D) THE PERCENTAGE OF TOTAL SHARES AS DETERMINED IN SUBSECTION (9)(C)(I) IS THE PERCENTAGE OF TAXES PAID AS DETERMINED IN SUBSECTION (9)(C)(II) THAT IS TO BE CREDITED TO REDUCE THE TUITION CHARGE.

NEW SECTION. **Section 2.** Attendance with mandatory approval -- tuition and transportation. (1) An out-of-district attendance agreement~~,--permitting--payment--of tuition-and-transportation,~~ THAT ALLOWS A CHILD TO ENROLL IN AND ATTEND A SCHOOL IN A MONTANA SCHOOL DISTRICT THAT IS OUTSIDE OF THE CHILD'S DISTRICT OF RESIDENCE OR IN A PUBLIC SCHOOL DISTRICT OF A STATE OR PROVINCE THAT IS ADJACENT TO THE COUNTY OF THE CHILD'S RESIDENCE is mandatory ~~and--does not--require--approval--of--the--trustees-of-the-district-of residence-or-the-district-of-choice-for--an--out-of-district child~~ whenever:

(A) THE CHILD RESIDES CLOSER TO THE SCHOOL THAT THE CHILD WISHES TO ATTEND AND MORE THAN 3 MILES FROM THE SCHOOL THE CHILD WOULD ATTEND IN THE RESIDENT DISTRICT;

(B) THE CHILD RESIDES IN A LOCATION WHERE, DUE TO ROAD OR GEOGRAPHIC CONDITIONS, IT IS IMPRACTICAL TO ATTEND THE SCHOOL NEAREST THE CHILD'S RESIDENCE;

(C) THE CHILD IS A MEMBER OF A FAMILY WHO MUST SEND ANOTHER CHILD OUTSIDE OF THE ELEMENTARY DISTRICT TO ATTEND HIGH SCHOOL AND THE CHILD OF ELEMENTARY AGE MAY MORE CONVENIENTLY ATTEND AN ELEMENTARY SCHOOL WHERE THE HIGH

SCHOOL IS LOCATED, PROVIDED THE CHILD RESIDES MORE THAN 3 MILES FROM AN ELEMENTARY SCHOOL IN THE RESIDENT DISTRICT OR THE PARENT MUST MOVE TO THE ELEMENTARY DISTRICT WHERE THE HIGH SCHOOL IS LOCATED TO ENROLL ANOTHER CHILD IN HIGH SCHOOL;

~~(a)~~(D) the child has been adjudicated by a court of competent jurisdiction to be an abused, neglected, or dependent child, as defined in 41-3-102, or a youth in need of supervision or a delinquent youth, as defined in 41-5-103, and has been placed in a licensed youth care facility that is approved by the department of family services and, as a result of the placement, is required to attend school outside of the child's district of residence; OR

~~(b)~~(E) the child is required to attend school outside of the district of residence as the result of a placement by a state agency or parent in a group home licensed by the state or an order of a court of competent jurisdiction~~;--or~~

~~(c)--the--child--is-required-to-attend-school-outside-of the--district--of--residence--as--the--result--of--placement pursuant-to-Title-20,-chapter-7,-part-4.~~

(2) (A) Whenever a parent or guardian of a child, an agency of the state, or a court wishes to have a child attend a school under the provisions of this section, the parent or guardian, agency, or court shall complete an

out-of-district attendance agreement in consultation with an appropriate official of the district the child will attend.

(B) THE ATTENDANCE AGREEMENT MUST SET FORTH THE FINANCIAL OBLIGATIONS, IF ANY, FOR COSTS INCURRED FOR TUITION AND TRANSPORTATION AS PROVIDED IN [SECTION 4] AND TITLE 20, CHAPTER 10.

(C) THE TRUSTEES OF THE DISTRICT OF CHOICE MAY WAIVE ANY OR ALL OF THE TUITION RATE, BUT ANY WAIVER MUST BE APPLIED EQUALLY TO ALL STUDENTS.

(3) Except as provided in subsection (4), the trustees OF THE RESIDENT DISTRICT AND THE TRUSTEES OF THE DISTRICT OF CHOICE shall approve the out-of-district attendance agreement and notify the county superintendent of schools of the county of the child's residence of the approval of the agreement within 10 days. THE COUNTY SUPERINTENDENT SHALL APPROVE THE AGREEMENT FOR PAYMENT UNDER [SECTION 5(6)].

(4) Unless the child is a child with disabilities who resides in the district, the trustees of the district where the school to be attended is located may disapprove an out-of-district attendance agreement whenever they find that, due to insufficient room and overcrowding, the accreditation of the school would be adversely affected by the acceptance of the child.

~~(5)--This--section--does--not-preclude-the-trustees-from waiving-any-portion-of-the-tuition-payment,-but--any--waiver~~

~~must be applied equally to all students.~~

NEW SECTION. **Section 3.** Residency determination -- notification -- appeal for attendance agreement. (1) In considering an out-of-district attendance agreement, the trustees shall determine the child's district of residence on the basis of the provisions of 1-1-215.

(2) ~~The~~ WITHIN 10 DAYS OF THE INITIAL APPLICATION FOR AN AGREEMENT, THE trustees OF THE DISTRICT OF CHOICE shall notify the parent or guardian of the child AND THE TRUSTEES OF THE DISTRICT OF RESIDENCE involved in the out-of-district attendance agreement of the ~~approximate~~ ANTICIPATED date for approval or disapproval of the agreement ~~within 10 days of the initial application for an agreement~~.

(3) Within 10 days of approval or disapproval of an out-of-district attendance agreement, the trustees shall provide copies of the approved or disapproved attendance agreement to the parent or guardian and to the child's district of residence.

(4) WITHIN 15 DAYS OF RECEIPT OF AN APPROVED OUT-OF-DISTRICT ATTENDANCE AGREEMENT, THE TRUSTEES OF THE DISTRICT OF RESIDENCE SHALL APPROVE OR DISAPPROVE THE AGREEMENT UNDER THE PROVISIONS OF THIS PART AND FORWARD THE COMPLETED AGREEMENT TO THE COUNTY SUPERINTENDENT OF SCHOOLS OF THE COUNTY OF RESIDENCE, THE TRUSTEES OF THE DISTRICT OF CHOICE, AND THE PARENT OR GUARDIAN.

~~(4)~~(5) If an out-of-district attendance agreement is disapproved or no action is taken, the parent may appeal the disapproval or lack of action to the county superintendent and, subsequently, to the superintendent of public instruction under the provisions for the appeal of controversies in this title.

NEW SECTION. **Section 4.** Tuition and transportation rates. (1) ~~Whenever~~ EXCEPT AS PROVIDED IN SUBSECTION (3) AND (4), WHENEVER a child has ~~mandatory~~ approval to attend a school outside of the child's district of residence under the provisions of ~~[section--2],--the-county-of-the-child's residence--shall--pay--tuition--and--transportation--to--the district-where-the-child-attends-school.~~

~~(2)--The--superintendent--of--public--instruction--shall adopt-rules-to-set-the-tuition-rates-for-all-out-of-district attendance-within-the-following-guidelines:~~

~~(a)--Tuition-rates-for-all-out-of-district-children--who are-not-in-a-special-education-program-must-be-a-flat-rate.~~

~~(b)--Tuition--rates--for-children-with-disabilities-must be--determined---according---to---rules---adopted---by---the superintendent--of-public-instruction.~~ [SECTION 1 OR 2], THE BASIS OF THE RATE OF TUITION IS A FLAT RATE FOR EACH FUNDING CATEGORY IN THE FOUNDATION PROGRAM SCHEDULES DETERMINED BY RULE BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION BY MARCH 15 OF EACH YEAR, USING STATEWIDE DISTRICT EXPENDITURE AND

REVENUE DATA FOR THE GENERAL FUND, DEBT SERVICE FUND, AND RETIREMENT FUND TO DETERMINE THE AVERAGE DISTRICT CONTRIBUTION.

(2) THE TUITION FOR CHILDREN WITH DISABILITIES MUST BE DETERMINED UNDER RULES ADOPTED BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION FOR THE CALCULATION OF TUITION FOR SPECIAL EDUCATION PUPILS.

(3) THE TUITION RATE FOR OUT-OF-DISTRICT PLACEMENT PURSUANT TO [SECTION 2(1)(D) AND (1)(E) FOR A STUDENT WITHOUT DISABILITIES WHO REQUIRES A PROGRAM WITH COSTS THAT EXCEED THE AVERAGE DISTRICT COSTS MUST BE DETERMINED AS THE ACTUAL INDIVIDUAL COSTS OF PROVIDING THAT PROGRAM ACCORDING TO THE FOLLOWING:

(A) THE DISTRICT OF ATTENDANCE AND THE DISTRICT, PERSON, OR ENTITY RESPONSIBLE FOR THE TUITION PAYMENTS SHALL APPROVE AN AGREEMENT WITH THE DISTRICT OF ATTENDANCE FOR THE TUITION COST; AND

(B) FOR A MONTANA RESIDENT STUDENT, THE AVERAGE DISTRICT PER-ANB FOUNDATION PAYMENT AMOUNT RECEIVED IN THE YEAR FOR WHICH THE TUITION CHARGES ARE CALCULATED MUST BE SUBTRACTED FROM THE PER-STUDENT PROGRAM COSTS FOR A MONTANA RESIDENT STUDENT.

~~(3)~~(4) When a child ~~without--disabilities~~ ATTENDS A PUBLIC SCHOOL OF ANOTHER STATE OR has been placed by a state agency in an out-of-state residential program, the amount of

daily tuition may not be greater than the average annual cost per student in the child's district of residence. This calculation for tuition purposes is determined by totaling all of the expenditures for all of the district budgeted funds for the preceding school fiscal year and dividing that amount by the October 1 enrollment in the preceding school fiscal year. For the purposes of this subsection, the following do not apply:

(a) placement of a child with disabilities pursuant to Title 20, chapter 7, part 4; ~~or~~

(b) placement made in a state with a reciprocal tuition agreement pursuant to 20-5-314~~.~~; OR

(C) AN ORDER ISSUED UNDER TITLE 40, CHAPTER 4, PART 2.

~~(4)~~(5) The amount, if any, charged for transportation may not exceed the lesser of the average transportation cost per student in the child's district of residence or 21.25 cents per mile. The average expenditures for the district transportation fund for the preceding school fiscal year must be calculated by dividing the transportation fund expenditures by the October 1 enrollment for the preceding fiscal year.

NEW SECTION. **Section 5.** Tuition report and payment provisions. (1) At the close of the school term of each school fiscal year and before July 15, the trustees of a district shall report to the county superintendent:

(a) the name and district of residence of each child who is attending a school of the district under an approved mandatory out-of-district attendance agreement;

(b) the number of days of enrollment for each child reported under the provisions of subsection (1)(a);

(c) the annual tuition rate for each child's tuition payment, as determined under the provisions of [section 4], and the tuition cost for each reported child; AND

(D) THE NAMES, DISTRICTS OF ATTENDANCE, AND AMOUNT OF TUITION TO BE PAID BY THE DISTRICT FOR RESIDENT STUDENTS ATTENDING PUBLIC SCHOOLS OUT OF STATE.

(2) The county superintendent shall send, as soon as practicable, the reported information to the county superintendent of the county in which a reported child resides.

(3) BEFORE JULY 30, THE COUNTY SUPERINTENDENT SHALL REPORT THE INFORMATION IN SUBSECTION (1)(D) TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION.

(4) THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL DETERMINE THE TOTAL FOUNDATION AMOUNT FOR WHICH THE DISTRICT WOULD BE ELIGIBLE IF THE STUDENT WERE ENROLLED IN THE RESIDENT DISTRICT. THE REIMBURSEMENT AMOUNT IS THE DIFFERENCE BETWEEN THE ACTUAL AMOUNT PAID AND THE AMOUNT CALCULATED IN THIS SUBSECTION.

(5) NOTWITHSTANDING THE REQUIREMENTS OF SUBSECTION (6),

TUITION PAYMENT PROVISIONS FOR OUT-OF-DISTRICT PLACEMENT OF STUDENTS WITH DISABILITIES MUST BE DETERMINED PURSUANT TO TITLE 20, CHAPTER 7, PART 4.

~~(3)~~(6) ~~The--mandatory~~ WHEN A CHILD HAS APPROVAL TO ATTEND A SCHOOL OUTSIDE THE CHILD'S DISTRICT OF RESIDENCE BUT WITHIN THE CHILD'S COUNTY OF RESIDENCE UNDER THE PROVISIONS OF [SECTION 1 OR 2], THE DISTRICT OF RESIDENCE SHALL FINANCE THE TUITION AMOUNT FROM THE DISTRICT TUITION FUND AND ANY TRANSPORTATION AMOUNT FROM THE TRANSPORTATION FUND. WHEN A CHILD HAS MANDATORY APPROVAL UNDER THE PROVISIONS OF [SECTION 2], THE tuition and transportation obligation for an elementary school child attending a school outside of the child's ~~district~~ COUNTY of residence must be financed by the county basic tax for elementary districts, as provided in 20-9-331, for the child's county of residence. ~~---The--total--amount--of-the-mandatory-tuition-and transportation-obligation-for-a-high-school-child--attending a--school--outside-of-the-child's-district-of-residence-must be-financed-by~~ OR FOR A HIGH SCHOOL CHILD ATTENDING A SCHOOL OUTSIDE THE COUNTY OF RESIDENCE BY the county basic tax for high school districts, as provided in 20-9-333, for the child's county of residence.

~~(4)~~(7) By December 31 of the school fiscal year, the county superintendent OR THE TRUSTEES shall pay at least one-half of any tuition and transportation obligation

established under this section out of the money realized to date from the appropriate basic county tax account provided for in 20-9-334 OR FROM THE DISTRICT TUITION OR TRANSPORTATION FUND. The remaining tuition and transportation obligation must be paid by June 15 of the school fiscal year. The payments must be made to the county treasurer in each county with a school district that is entitled to tuition and transportation. Except as provided in subsection ~~(5)~~ (9), the county treasurer shall credit tuition receipts to the general fund of a school district entitled to a tuition payment. The tuition receipts must be used in accordance with the provisions of 20-9-141. The county treasurer shall credit transportation receipts to the transportation fund of a school district entitled to a transportation payment.

(8) THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL REIMBURSE THE DISTRICT OF RESIDENCE FROM THE STATE EQUALIZATION ACCOUNT FOR THE FOUNDATION AMOUNT DETERMINED IN SUBSECTION (4).

~~(5)~~(9) (A) Any tuition receipts received under the provisions of Title 20, chapter 7, part 4, or ~~this part must~~ [SECTION 4(3)] FOR THE CURRENT SCHOOL FISCAL YEAR THAT EXCEED THE TUITION RECEIPTS OF THE PRIOR YEAR MAY be deposited in ~~a separate account to~~ the district miscellaneous programs fund and must be used for that year

in the manner provided for in 20-9-507 to support the costs of the program for which the tuition was received.

(B) ANY OTHER TUITION RECEIPTS RECEIVED FOR THE CURRENT SCHOOL FISCAL YEAR THAT EXCEED THE TUITION RECEIPTS OF THE PRIOR YEAR MAY BE DEPOSITED IN THE DISTRICT MISCELLANEOUS PROGRAMS FUND AND MAY BE USED FOR THAT YEAR IN THE MANNER PROVIDED FOR IN THAT FUND. FOR THE ENSUING SCHOOL FISCAL YEAR, THE RECEIPTS MUST BE CREDITED TO THE DISTRICT GENERAL FUND BUDGET.

Section 6. Section 20-3-205, MCA, is amended to read:

"**20-3-205. Powers and duties.** The county superintendent has general supervision of the schools of the county within the limitations prescribed by this title and shall perform the following duties or acts:

(1) determine, establish, and reestablish trustee nominating districts in accordance with the provisions of 20-3-352, 20-3-353, and 20-3-354;

(2) administer and file the oaths of members of the boards of trustees of the districts in ~~his~~ the county in accordance with the provisions of 20-3-307;

(3) register the teacher or specialist certificates or emergency authorization of employment of any person employed in the county as a teacher, specialist, principal, or district superintendent in accordance with the provisions of 20-4-202;

(4) act on each tuition ~~application~~ and transportation obligation submitted ~~to--him~~ in accordance with the provisions of ~~20-5-301,-20-5-302,-20-5-304,-and-20-5-311-and transmit---the--tuition--information--required--by--20-5-312~~ [sections 4 and 5];

(5) file a copy of the audit report for a district in accordance with the provisions of 20-9-203;

(6) classify districts in accordance with the provisions of 20-6-201 and 20-6-301;

(7) keep a transcript and reconcile the district boundaries of the county in accordance with the provisions of 20-6-103;

(8) fulfill all responsibilities assigned ~~to-him~~ under the provisions of this title regulating the organization, alteration, or abandonment of districts;

(9) act on any unification proposition and, if approved, establish additional trustee nominating districts in accordance with 20-6-312 and 20-6-313;

(10) estimate the average number belonging (ANB) of an opening school in accordance with the provisions of 20-6-502, 20-6-503, 20-6-504, or 20-6-506;

(11) process and, when required, act on school isolation applications in accordance with the provisions of 20-9-302;

(12) complete the budgets, compute the budgeted revenues and tax levies, file final budgets and budget amendments,

and fulfill other responsibilities assigned ~~to him~~ under the provisions of this title regulating school budgeting systems;

(13) submit an annual financial report to the superintendent of public instruction in accordance with the provisions of 20-9-211;

(14) monthly, unless otherwise provided by law, order the county treasurer to apportion state money, county school money, and any other school money subject to apportionment in accordance with the provisions of 20-9-212, 20-9-334, 20-9-347, 20-10-145, or 20-10-146;

(15) act on any request to transfer average number belonging (ANB) in accordance with the provisions of 20-9-313(3);

(16) calculate the estimated budgeted general fund sources of revenue in accordance with the provisions of 20-9-348 and the other general fund revenue provisions of the general fund part of this title;

(17) compute the revenues and the district and county levy requirements for each fund included in each district's final budget and report the computations to the board of county commissioners in accordance with the provisions of the general fund, transportation, bonds, and other school funds parts of this title;

(18) file and forward bus driver certifications,

transportation contracts, and state transportation reimbursement claims in accordance with the provisions of 20-10-103, 20-10-143, or 20-10-145;

(19) for districts that do not employ a district superintendent or principal, recommend library book and textbook selections in accordance with the provisions of 20-7-204 or 20-7-602;

(20) notify the superintendent of public instruction of a textbook dealer's activities when required under the provisions of 20-7-605 and otherwise comply with the textbook dealer provisions of this title;

(21) act on district requests to allocate federal money for indigent children for school food services in accordance with the provisions of 20-10-205;

(22) perform any other duty prescribed from time to time by this title, any other act of the legislature, the policies of the board of public education, the policies of the board of regents relating to community college districts, or the rules of the superintendent of public instruction;

(23) administer the oath of office to trustees without the receipt of pay for administering the oath;

(24) keep a record of ~~his~~ official acts, preserve all reports submitted to ~~him~~ the superintendent under the provisions of this title, preserve all books and

instructional equipment or supplies, keep all documents applicable to the administration of the office, and surrender all records, books, supplies, and equipment to ~~his~~ successor the next superintendent;

(25) within 90 days after the close of the school fiscal year, publish an annual report in the county newspaper stating the following financial information for the school fiscal year just ended for each district of the county:

(a) the total of the cash balances of all funds maintained by the district at the beginning of the year;

(b) the total receipts that were realized in each fund maintained by the district;

(c) the total expenditures that were made from each fund maintained by the district; and

(d) the total of the cash balances of all funds maintained by the district at the end of the school fiscal year; and

(26) hold meetings for the members of the trustees from time to time at which matters for the good of the districts must be discussed."

Section 7. Section 20-3-210, MCA, is amended to read:

"20-3-210. Controversy appeals and hearings. (1) Except as provided under 20-3-211, the county superintendent shall hear and decide all matters of controversy arising in ~~his~~ the county as a result of decisions of the trustees of a

district in the county. Except as provided in subsection (2), exhaustion of administrative remedies under this chapter is required prior to filing an action in district court concerning a decision of the trustees. When appeals are made under 20-4-204 relating to the termination of services of a tenure teacher or under 20-4-207 relating to the dismissal of a teacher under contract, the county superintendent may appoint a qualified attorney at law to act as a legal adviser who shall assist the superintendent in preparing findings of fact and conclusions of law. Subsequently, either the teacher or trustees may appeal to the superintendent of public instruction under the provisions for appeal of controversies in this title. ~~Furthermore,--he~~ The county superintendent shall hear and decide all controversies arising under:

(a) ~~20-5-304-or-20-5-311~~ [sections 1 and 2] relating to the approval of ~~tuition---applications~~ out-of-district attendance agreements;

(b) 20-4-206(4); or

(c) any other provision of this title for which a procedure for resolving controversies is not expressly prescribed.

(2) Exhaustion of administrative remedies is not a prerequisite to filing an action in district court concerning a decision of the trustees of a district in the

following instances:

(a) a state agency has been granted primary jurisdiction over the matter;

(b) the matter is governed by a specific statute; or

(c) the board of trustees has acted without jurisdiction or in excess of its jurisdiction.

(3) The county superintendent shall hear the appeal and take testimony in order to determine the facts related to the controversy and may administer oaths to the witnesses that testify at the hearing. ~~He~~ The county superintendent shall prepare a written transcript of the hearing proceedings. The decision on the matter of controversy ~~which~~ that is made by the county superintendent ~~shall~~ must be based upon the facts established at ~~such~~ the hearing.

(4) The decision of the county superintendent may be appealed to the superintendent of public instruction, and if it is appealed, the county superintendent shall supply a transcript of the hearing and any other documents entered as testimony at the hearing to the superintendent of public instruction.

(5) Cost incurred by the office of the county superintendent ~~shall~~ must be paid from the general fund budget of the county in which the controversy is initiated."

Section 8. Section 20-5-314, MCA, is amended to read:

"20-5-314. Reciprocal ~~tuition~~ attendance agreement with

adjoining state ~~----county--payment--obligation~~. (1) The superintendent of public instruction ~~shall--have--the authority-to~~ may execute a reciprocal ~~tuition~~ ATTENDANCE agreement with the superintendent of public instruction or a department of education of any state adjoining Montana ~~to allow-the-eligible-children-of~~ for a reciprocal tuition rate for TO ALLOW a child who is a Montana resident to attend school in the adjoining state and ~~to-allow-children-of~~ for a child of the adjoining state to attend school in Montana. In negotiating a reciprocal ~~tuition~~ ATTENDANCE agreement, the tuition rates prescribed by ~~20-5-305-and-20-5-312--shall--be~~ [section 4] are waived and the reciprocal tuition rate may be negotiated as a flat amount or an actual-cost-per-pupil amount. The superintendent of public instruction shall supply a copy of any reciprocal ~~tuition~~ ATTENDANCE agreement that is executed to the county superintendent of each county that may be affected by ~~such~~ the agreement.

(2) ~~Any-tuition~~ An out-of-district attendance agreement approved under the provisions of ~~20-5-301,-20-5-302,-or 20-5-311~~ [sections 1 and 2] must be completed for a child's attendance at a school outside ~~of~~ the state ~~shall-be completed--in--accordance--with--the--applicable--reciprocal tuition-agreement~~ or for an out-of-state child to attend a school in Montana.

~~(3)--The--county-superintendent-of-schools-of-the-county~~

~~of the child's district of residence shall make payments from:~~

~~(a) the county basic tax for elementary schools, as provided in 20-9-331, for a child who is placed in facilities outside of the state, pursuant to (section 2(1)(a) or (1)(b)), but who is not a child with disabilities as defined pursuant to the provisions of Title 20, chapter 7, part 4, or~~

~~(b) the county basic special tax for high schools, as provided in 20-9-333, for a child who is placed in facilities outside the state, pursuant to (section 2(1)(a) or (1)(b)), but who is not a child with disabilities as defined pursuant to the provisions of Title 20, chapter 7, part 4.~~"

Section 9. Section 20-6-702, MCA, is amended to read:

"20-6-702. Funding for K-12 school districts. (1) Notwithstanding the provisions of subsections (2) through (6), a K-12 school district formed under the provisions of 20-6-701 is subject to the provisions of law for high school districts.

(2) The number of elected trustees of the K-12 school district must be based on the classification of the attached elementary district under the provisions of 20-3-341 and 20-3-351.

(3) Calculations for the following must be made

separately for the elementary school program and the high school program of a K-12 school district:

(a) the calculation of ANB for purposes of determining the foundation program schedule payments must be in accordance with the provisions of 20-9-311;

(b) the basic county tax and revenues for the elementary foundation program amount for the district must be determined in accordance with the provisions of 20-9-331, and the basic special tax and revenues for the high school foundation program amount for the district must be determined in accordance with 20-9-333; and

(c) the guaranteed tax base aid for the permissive levy amount for a K-12 school district must be calculated separately, using the mill value per elementary ANB and the mill value per high school ANB as defined in 20-9-366. The permissive amount to be levied for the K-12 school district must be prorated based on the ratio of the foundation program amounts for elementary school programs to the foundation program amounts for high school programs.

(4) The retirement obligation and eligibility for retirement guaranteed tax base aid for a K-12 school district must be calculated and funded as a high school district retirement obligation under the provisions of 20-9-501.

(5) For the purposes of budgeting for a K-12 school

district, the trustees shall adopt a single fund for any of the budgeted or nonbudgeted funds described in 20-9-201 for the costs of operating all grades and programs of the district.

(6) Tuition for attendance in the K-12 school district must be determined separately for high school pupils and for elementary pupils under the provisions of ~~chapter 5, part 3~~ [sections 1 through 5], except that the actual expenditures used for calculations in ~~20-5-305 and 20-5-312~~ [section 4] must be based on an amount prorated between the elementary and high school programs in the appropriate funds of each district in the year prior to the attachment of the districts."

Section 10. Section 20-7-420, MCA, is amended to read:

"20-7-420. Residency requirements -- financial responsibility for special education. (1) In accordance with the provisions of 1-1-215, a child's district of residence for special education purposes is the residence of ~~his~~ the child's parents or of ~~his~~ the child's guardian unless otherwise determined by the court. This applies to a child living at home, in an institution, or under foster care. If the parent has left the state, the parent's last known district of residence is the child's district of residence.

(2) The ~~district~~ county of residence is financially responsible for tuition and transportation as established

under ~~20-5-305-and-20-5-322~~ [section 4] for a child with disabilities, as defined in 20-7-401, including a child who has been placed by a state agency in a foster care or group home licensed by the state. The ~~district~~ county of residence is not financially responsible for tuition and transportation for a child with disabilities who is placed by a state agency in an out-of-state public school or an out-of-state private residential facility.

(3) If a child with disabilities who is in need of special education is placed in an in-state residential treatment facility or children's psychiatric hospital as defined in 20-7-436 but the educational placement is in a public school district, the ~~district~~ county of residence is responsible for tuition and transportation for the proportion of time the child is served in the public school district unless the public school district is operated primarily for the purpose of providing education to children who attend the residential facility or hospital.

(4) Under the provisions of 20-7-422(3), the superintendent of public instruction shall provide funds for the education fees required to provide a free appropriate public education for a child with disabilities who is in need of special education and is placed by a state agency in an out-of-state private residential facility or out-of-state public school, provided that, in determining the special

education services needed for the child with disabilities, the district of residence has complied with the rules promulgated under 20-7-402.

(5) A state agency that makes a placement of a child with disabilities is responsible for the room and board and the treatment of the child."

Section 11. Section 20-7-421, MCA, is amended to read:

"20-7-421. Arranging attendance in another district in lieu of a special education program -- tuition. (1) In accordance with a placement decision made by persons determining an individualized education program for a child with disabilities, the trustees may arrange for the attendance of a child in need of special education in another district within the state of Montana.

(2) Tuition and transportation as required under ~~20-5-305-and-20-5-312~~ [section 4] may be charged as provided in 20-7-420."

Section 12. Section 20-7-422, MCA, is amended to read:

"20-7-422. Out-of-state placement of children with disabilities -- payment of costs. (1) In accordance with a placement made by persons determining an individualized education program for a child with disabilities, the trustees of a district may arrange for the attendance of the child in a special education program offered outside of the state of Montana. ~~The-arrangements-are-not--subject--to--the~~

~~out-of-state-attendance-provisions-in-20-5-301-and-20-5-311.~~

(2) ~~(a)~~ Except as provided in subsection (3), when the persons determining the individualized education program of a child with disabilities who is in need of special education recommend placement in an out-of-state private residential facility, the ~~trustees of the district~~ county superintendent of the county of residence shall negotiate the amount and manner of payment of all costs associated with the placement.

~~(b) If the placement of the child with disabilities has met the requirements of 20-7-402, the superintendent of public instruction shall approve the amount of special education instructional fees to be included as a contracted service. Only the special education instructional fees may be included as a contracted service for the purposes of 20-7-431(1)(a)(iii)(A).~~

(3) Whenever a child with disabilities who is in need of special education is adjudicated by a court of competent jurisdiction to be an abused, neglected, or dependent child as defined in 41-3-102 or a youth in need of supervision or delinquent youth as defined in 41-5-103 and is placed by a state agency in an out-of-state private residential facility, the superintendent of public instruction shall negotiate with:

(a) the provider for the amount and manner of payment

of education fees consistent with the individualized education program determined for the child under the provisions of 20-7-402; and

(b) the state agency that makes the placement for the portion of the placement costs that represents the child's education program.

(4) Payments for a child with disabilities as negotiated in subsection (3) must be paid by the superintendent of public instruction from the state special education appropriation."

Section 13. Section 20-7-424, MCA, is amended to read:

"20-7-424. No tuition when attending a state institution. ~~When~~ Whenever a child is attending ~~an~~ A STATE-FUNDED institution ~~supported solely by funds of the state of~~ IN Montana, the resident district or county ~~shall not be~~ is not required to pay tuition to the state institution for ~~such~~ the child, but whenever at the recommendation of institution officials ~~such~~ the child attends classes conducted by a school within a local district, the ~~district or~~ DISTRICT OR county~~, whichever is applicable, wherein~~ where the parents or guardian of the child ~~maintain~~ maintains legal residence shall pay tuition to the district ~~or county~~ operating the school in accordance with the provisions of ~~20-5-305 or~~ [section 2] or 20-7-421, whichever section applies to the circumstances of the child.

Transportation payments ~~shall~~ must be made for students enrolled in ~~such~~ any school district classes or receiving training, including summer sessions, at the state institution. The schedule of transportation payments ~~shall~~ must be approved in accordance with existing ~~special education~~ transportation payment schedules and ~~shall~~ must be approved by the county transportation committee and the superintendent of public instruction."

Section 14. Section 20-9-141, MCA, is amended to read:

"20-9-141. Computation of general fund net levy requirement by county superintendent. (1) The county superintendent shall compute the levy requirement for each district's general fund on the basis of the following procedure:

(a) Determine the funding required for the district's final general fund budget less the amount established by the schedules in 20-9-316 through 20-9-321 by totaling:

(i) the district's nonisolated school foundation program requirement to be met by a district levy as provided in 20-9-303; and

(ii) any additional general fund budget amount adopted by the trustees of the district under the provisions of 20-9-145 and 20-9-353, including any additional levies authorized by the electors of the district.

(b) Determine the money available for the reduction of

the property tax on the district for the general fund by totaling:

(i) anticipated federal money received under the provisions of Title I of Public Law 81-874 or other anticipated federal money received in lieu of that federal act;

(ii) anticipated tuition payments for out-of-district pupils under the provisions of ~~20-5-303, 20-5-307, 20-5-312, and 20-5-313~~ [sections 2 through 4];

(iii) general fund balance reappropriated, as established under the provisions of 20-9-104;

(iv) anticipated or reappropriated state impact aid received under the provisions of 20-9-304;

(v) anticipated or reappropriated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

(vi) anticipated net proceeds taxes for new production, as defined in 15-23-601;

(vii) anticipated revenue from local government severance taxes as provided in 15-36-112;

(viii) anticipated revenue from coal gross proceeds under 15-23-703;

(ix) anticipated interest to be earned or reappropriated interest earned by the investment of general fund cash in accordance with the provisions of 20-9-213(4);

(x) anticipated revenue from corporation license taxes collected from financial institutions under the provisions of 15-31-702; and

(xi) any other revenue anticipated by the trustees to be received during the ensuing school fiscal year that may be used to finance the general fund, excluding any guaranteed tax base aid.

(c) Notwithstanding the provisions of subsection (2), subtract the money available to reduce the property tax required to finance the general fund that has been determined in subsection (1)(b) from any additional general fund budget amount adopted by the trustees of the district as the permissive amount under the provisions of 20-9-145 to determine the general fund permissive net levy requirement.

(d) Subtract any amount remaining after the determination in subsection (1)(c) from any additional funding requirement to be met by a district levy as provided in 20-9-303 and 20-9-353 to determine the additional general fund levy requirement.

(2) The county superintendent shall calculate the number of mills to be levied on the taxable property in the district to finance the general fund permissive net levy requirement by dividing the amount determined in subsection (1)(c) by the sum of:

(a) the amount of guaranteed tax base aid that the

district will receive for each mill levied, as certified by the superintendent of public instruction; and

(b) the taxable valuation of the district divided by 1,000.

(3) The net general fund levy requirement determined in subsections (1)(c) and (1)(d) must be reported to the county commissioners on the second Monday of August by the county superintendent as the general fund permissive net levy requirement and the additional general fund levy requirement for the district, and a levy must be set by the county commissioners in accordance with 20-9-142."

Section 15. Section 20-9-507, MCA, is amended to read:

"20-9-507. Miscellaneous programs fund. (1) The trustees of a district receiving money from local, state, federal, or other sources provided in ~~20-5-307(4),~~ ~~20-5-312(8),~~ [section 5] and 20-9-321(3) other than money under the provisions of Title I of Public Law 81-874 or federal money designated for deposit in a specific fund of the district shall establish a miscellaneous programs fund for the deposit of the money. The money may be a reimbursement of miscellaneous program fund expenditures already realized by the district or may be a grant of money for the financing of expenditures to be realized by the district for a special, approved program to be operated by the district. When the money is a reimbursement, the money

may be expended at the discretion of the trustees for school purposes. When the money is a grant, the money must be expended according to the conditions of the program approval by the superintendent of public instruction or any other approval agent. Within the miscellaneous programs fund, the trustees shall cause a separate accounting to be maintained for each federal grant program and for the aggregate of all reimbursement money.

(2) The financial administration of the miscellaneous programs fund must be in accordance with the financial administration provisions of this title for a nonbudgeted fund."

Section 16. Section 20-10-105, MCA, is amended to read:

"**20-10-105. Determination of residence.** When the residence of an eligible transportee is a matter of controversy and is an issue before a board of trustees, a county transportation committee, or the superintendent of public instruction, the residence ~~shall~~ must be established on the basis of the general state residence law as provided in 1-1-215. Whenever ~~any district or~~ a county is determined to be responsible for paying tuition for any pupil in accordance with ~~20-5-301, 20-5-302, or 20-5-311~~ [sections 2 through 4], the residence of the pupil for tuition purposes is the residence of the pupil for transportation purposes."

Section 17. Section 20-10-144, MCA, is amended to read:

"20-10-144. Computation of revenues and net tax levy requirements for district transportation fund budget. Before the fourth Monday of July and in accordance with 20-9-123, the county superintendent shall compute the revenue available to finance the transportation fund budget of each district. The county superintendent shall compute the revenue for each district on the following basis:

(1) The "schedule amount" of the preliminary budget expenditures that is derived from the rate schedules in 20-10-141 and 20-10-142 must be determined by adding the following amounts:

(a) the sum of the maximum reimbursable expenditures for all approved school bus routes maintained by the district (to determine the maximum reimbursable expenditure, multiply the applicable rate per bus mile by the total number of miles to be traveled during the ensuing school fiscal year on each bus route approved by the county transportation committee and maintained by such district); plus

(b) the total of all individual transportation per diem reimbursement rates for the district as determined from the contracts submitted by the district multiplied by the number of pupil-instruction days scheduled for the ensuing school attendance year; plus

(c) any estimated costs for supervised home study or

supervised correspondence study for the ensuing school fiscal year; plus

(d) the amount budgeted on the preliminary budget for the contingency amount permitted in 20-10-143, except if the amount exceeds 10% of the total of subsections (1)(a), (1)(b), and (1)(c) or $100, whichever is larger, the contingency amount on the preliminary budget must be reduced to the limitation amount and used in this determination of the schedule amount; PLUS

(E) ANY ESTIMATED COSTS FOR TRANSPORTING A CHILD OUT OF DISTRICT WHEN THE CHILD HAS MANDATORY APPROVAL TO ATTEND A DISTRICT OUTSIDE THE DISTRICT OF RESIDENCE.

(2) (a) The schedule amount determined in subsection (1) or the total preliminary transportation fund budget, whichever is smaller, is divided by 2 and is used to determine the available state and county revenue to be budgeted on the following basis:

(i) one-half is the budgeted state transportation reimbursement, except that the state transportation reimbursement for the transportation of special education pupils under the provisions of 20-7-442 must be 50% of the schedule amount attributed to the transportation of special education pupils; and

(ii) one-half is the budgeted county transportation fund reimbursement and must be financed in the manner provided in

20-10-146.

(b) When the district has a sufficient amount of cash for reappropriation and other sources of district revenue, as determined in subsection (3), to reduce the total district obligation for financing to zero, any remaining amount of district revenue and cash reappropriated must be used to reduce the county financing obligation in subsection (2)(a)(ii) and, if the county financing obligations are reduced to zero, to reduce the state financial obligation in subsection (2)(a)(i).

(c) The county revenue requirement for a joint district, after the application of any district money under subsection (2)(b), must be prorated to each county incorporated by the joint district in the same proportion as the ANB of the joint district is distributed by pupil residence in each county.

(3) The total of the money available for the reduction of property tax on the district for the transportation fund must be determined by totaling:

(a) anticipated federal money received under the provisions of Title I of Public Law 81-874 or other anticipated federal money received in lieu of that federal act;

(b) anticipated payments from other districts for providing school bus transportation services for the

district;

(c) anticipated payments from a parent or guardian for providing school bus transportation services for ~~his~~ a child;

(d) anticipated or reappropriated interest to be earned by the investment of transportation fund cash in accordance with the provisions of 20-9-213(4);

(e) anticipated or reappropriated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

(f) anticipated revenue from coal gross proceeds under 15-23-703;

(g) anticipated net proceeds taxes for new production, as defined in 15-23-601, and local government severance taxes on any other production occurring after December 31, 1988;

(h) anticipated transportation payments for out-of-district pupils under the provisions of [sections 1 through 5];

(i) any other revenue anticipated by the trustees to be earned during the ensuing school fiscal year that may be used to finance the transportation fund; and

~~(i)~~(j) any fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year fund balance earmarked as the transportation

fund operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year fund balance in the transportation fund. The operating reserve may not be more than 20% of the final transportation fund budget for the ensuing school fiscal year and is for the purpose of paying transportation fund warrants issued by the district under the final transportation fund budget.

(4) The district levy requirement for each district's transportation fund must be computed by:

(a) subtracting the schedule amount calculated in subsection (1) from the total preliminary transportation budget amount; and

(b) subtracting the amount of money available to reduce the property tax on the district, as determined in subsection (3), from the amount determined in subsection (4)(a).

(5) The transportation fund levy requirements determined in subsection (4) for each district must be reported to the county commissioners on the second Monday of August by the county superintendent as the transportation fund levy requirements for the district, and the levy must be made by the county commissioners in accordance with 20-9-142."

SECTION 18. SECTION 20-10-146, MCA, IS AMENDED TO READ:

"20-10-146. County transportation reimbursement. (1)

The apportionment of the county transportation reimbursement by the county superintendent for school bus transportation or individual transportation that is actually rendered by a district in accordance with this title, board of public education transportation policy, and the transportation rules of the superintendent of public instruction must be the same as the state transportation reimbursement payment except that:

(a) if any cash was used to reduce the budgeted county transportation reimbursement under the provisions of 20-10-144(2)(b), the annual apportionment is limited to the budget amount; and

(b) when the county transportation reimbursement for a school bus has been prorated between two or more counties because the school bus is conveying pupils of more than one district located in the counties, the apportionment of the county transportation reimbursement must be adjusted to pay the amount computed under the proration; and

(c) when county transportation reimbursement is required under the mandatory attendance agreement provisions of [section 2].

(2) The county transportation net levy requirement for the financing of the county transportation fund reimbursements to districts is computed by:

(a) totaling the net requirement for all districts of

the county, including reimbursements to a special education cooperative or prorated reimbursements to joint districts or reimbursements under the mandatory attendance agreement provisions of [section 2];

(b) determining the sum of the money available to reduce the county transportation net levy requirement by adding:

(i) anticipated money that may be realized in the county transportation fund during the ensuing school fiscal year, including anticipated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

(ii) net proceeds taxes and local government severance taxes on other oil and gas production occurring after December 31, 1988;

(iii) coal gross proceeds taxes under 15-23-703;

(iv) any fund balance available for reappropriation from the end-of-the-year fund balance in the county transportation fund. The county transportation fund operating reserve may not be more than 35% of the final county transportation fund budget for the ensuing school fiscal year and must be used for the purpose of paying transportation fund warrants under the county transportation fund budget.

(v) federal forest reserve funds allocated under the

provisions of 17-3-213; and

(vi) other revenue anticipated that may be realized in the county transportation fund during the ensuing school fiscal year; and

(c) notwithstanding the provisions of subsection (3), subtracting the money available as determined in subsection (2)(b) to reduce the levy requirement from the county transportation net levy requirement.

(3) The net levy requirement determined in subsection (2)(c) must be reported to the county commissioners on the second Monday of August by the county superintendent and a levy must be set by the county commissioners in accordance with 20-9-142.

(4) The county superintendent shall apportion the county transportation reimbursement from the proceeds of the county transportation fund. The county superintendent shall order the county treasurer to make the apportionments in accordance with 20-9-212(2) and after the receipt of the semiannual state transportation reimbursement payments."

NEW SECTION. **Section 19.** Repealer. Sections 20-5-301, 20-5-302, 20-5-303, 20-5-304, 20-5-305, 20-5-306, 20-5-307, 20-5-311, 20-5-312, 20-5-313, and 20-7-437, MCA, are repealed.

NEW SECTION. **Section 20.** Codification instruction. [Sections 1 through 5] are intended to be codified as an

integral part of Title 20, chapter 5, part 3, and the provisions of Title 20, chapter 5, part 3, apply to [sections 1 through 5].

NEW SECTION. **Section 21.** Effective date -- applicability. [This act] is effective for the school fiscal year beginning July 1, 1993, and applies to calculations and payments for tuition for the school fiscal year beginning July 1, 1993.

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